CHAPTER 7

Hong Kong Housing Authority
Housing Department

Hong Kong Housing Authority: Management of commercial properties

Audit Commission
Hong Kong
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This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

Report No. 56 of the Director of Audit contains 8 Chapters which are available on our website at http://www.aud.gov.hk.

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HONG KONG HOUSING AUTHORITY:
MANAGEMENT OF COMMERCIAL PROPERTIES

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PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 The **Hong Kong Housing Authority** (**HA** — Note 1) is a statutory body established in 1973 under the Housing Ordinance (Cap. 283), with the **Housing Department** (**HD**) acting as its executive arm. Before November 2005, the HA owned and operated a wide portfolio of commercial and non-domestic properties, including retail and carpark (RC) facilities. In November 2005, the HA divested 180 RC facilities to a Real Estate Investment Trust (REIT), namely The Link REIT, which was listed on the Stock Exchange of Hong Kong (see paras. 6.2 to 6.4 for details). Following the divestment, the HA has continued to manage the non-divested commercial properties and those provided under new public housing developments.

1.3 As at December 2010, the commercial and non-domestic properties under the HA's management comprised about 168,600 square metres (m^2) of retail areas and 27,000 carparking spaces, as well as factory, welfare and other miscellaneous premises. In 2009-10, HA commercial operations generated an operating surplus of $461 million after charging exceptional items of $133 million. Table 1 shows a breakdown of the 2009-10 commercial operating account by category of properties.

Note 1: *The HA, chaired by the Secretary for Transport and Housing, has six standing committees and two sub-committees which have responsibilities for certain areas of its work. They are the Building Committee, the Commercial Properties Committee, the Finance Committee (and the Funds Management Sub-Committee), the Strategic Planning Committee (and the Audit Sub-Committee), the Subsidised Housing Committee, and the Tender Committee.*

Table 1

Commercial operating account (2009-10)

	Retail premises (Note 1)	Car park	Factory estate	Welfare premises	Total
	←		($ million)		→
Income	622	199	118	427	1,366
Expenditure	(315)	(160)	(96)	(201)	(772)
Operating surplus before exceptional items	307	39	22	226	594
Exceptional items (Note 2)	(101)	—	(31)	(1)	(133)
Operating surplus/ (deficit) for the year	**206**	**39**	**(9)**	**225**	**461**

Source: HD records

Note 1: Retail premises mainly comprise retail shops, market stalls and cooked food stalls.

Note 2: These represent demolition and clearance costs, and expenditure incurred on Government Infrastructure and Community facilities funded by the HA.

1.4 The management of commercial and non-domestic properties is under the purview of the HD's **Estate Management Division** (**EMD** — Note 2), which is headed by a Deputy Director. The EMD comprises three Sub-divisions (each headed by an Assistant Director) responsible for supervising the management of six Management Regions and overseeing the central functions of five Support Services (SS) Sections. An organisation chart of the HD is at Appendix A.

Note 2: *The EMD is also responsible for managing public rental housing estates and unsold flats under various subsidised home ownership schemes (e.g. Home Ownership Scheme, Tenants Purchase Scheme and Buy or Rent Option Scheme).*

1.5 The **Commercial Properties Committee** (**CPC**) is a standing committee of the HA (see Note 1 to para. 1.2), which is responsible for advising the HA on policies concerning its commercial, industrial and other non-domestic facilities, and optimising financial return on its investment (Note 3).

The 2005 audit of the management of factory estates

1.6 In 2005, the Audit Commission (Audit) completed an audit review of the management of HA factory estates. The review examined various issues including estate management, letting of factory units, and clearance of old factory estates. The results were included in Chapter 4 of the Director of Audit's Report No. 44 of March 2005. Audit made a number of recommendations for improvement, which were accepted by the HD.

Audit review

1.7 Audit has recently conducted a review of the management of HA commercial properties, focusing on the following areas:

(a) management of retail premises (PART 2);

(b) management of car parks (PART 3);

(c) management of factory estates (PART 4);

(d) performance measurement and reporting (PART 5); and

(e) the way forward (PART 6).

Audit has found areas where improvements can be made and has made a number of recommendations to address the issues.

Note 3: *The CPC is chaired by a Member of the HA. Its other terms of reference include:*

(a) endorsing programmes of activities and monitoring their performance, and approving the financial targets, service standards and performance measures for submission to the HA for approval; and

(b) managing and maintaining the HA's non-domestic properties, including determination of letting and promotion strategy, rents and other tenancy terms.

General response from the Administration

1.8 The **Director of Housing** has said that the audit observations and recommendations are generally agreed and accepted by the HA/HD. He thanks Audit for conducting the audit review which is, no doubt, of value to the HA/HD.

Acknowledgement

1.9 Audit would like to acknowledge with gratitude the full cooperation of the staff of the HD during the course of the audit review. Audit would also like to thank the staff of the Rating and Valuation Department for the provision of information to support the audit work in PART 6 of the Report.

PART 2: MANAGEMENT OF RETAIL PREMISES

2.1 This PART examines issues relating to the management of HA retail premises.

Retail premises of the Housing Authority

2.2 Retail premises mainly comprise retail shops, market stalls and cooked food stalls (CFS). As at December 2010, the HA managed retail premises in nearly 200 public housing estates/Home Ownership Scheme (HOS) courts, with a total floor area of 168,600 m^2. The HA's major retail facilities comprised 26 shopping centres and other retail premises in 11 estates (collectively referred to as "the 37 major retail facilities"), which altogether accounted for 141,500 m^2 (84%) of the total retail area. Of the 37 major retail facilities, 14 are directly managed by the HD while 23 are outsourced to property management contractors (contractors) for day-to-day management. Details of these 37 facilities are shown at Appendix B.

Measures to optimise the use of retail premises

2.3 **One of the HA's stated strategic objectives is to optimise the use of commercial properties.** In recent years, the HD has taken various measures to enhance the effective use of retail premises, including the following:

(a) regular review of the trade mix of individual shopping centres and markets to include new trades as appropriate;

(b) adoption of flexible strategies to facilitate leasing of vacant retail premises, including open instant tenders, direct allocation for welfare use and social enterprises, and offering longer rent-free period;

(c) conversion of long vacant shops for other uses (e.g. neighbourhood centre and day-care centre for the elderly);

(d) implementation of improvement works in a number of markets;

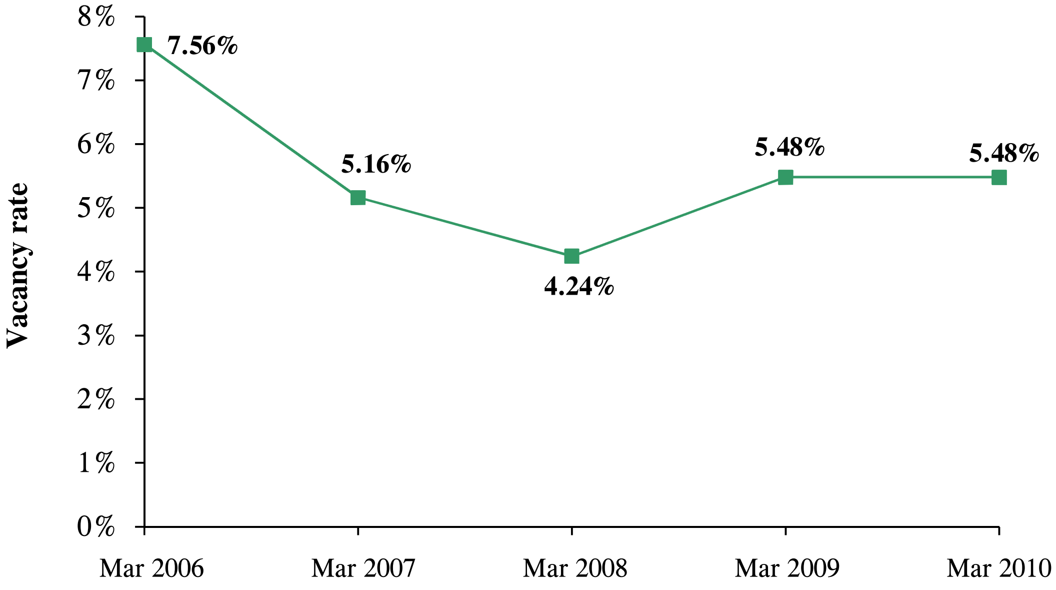
(e) tapping of private sector expertise in leasing and market positioning for a new development project in Kowloon East; and

(f) conduct of strength-weakness-opportunity-threat (SWOT) analysis in 2010 for the 37 major retail facilities to assess their market positioning and determine the priority of enhancement programmes.

2.4 The overall vacancy rates of retail premises in the past five years, as reported by the HD to the CPC, are shown in Figure 1.

Figure 1

Vacancy rate of retail premises (2006 to 2010)



Source: HD records

2.5 Audit visited 12 major retail facilities between October 2010 and January 2011 and found room for improvement in the following areas:

(a) day-to-day management of retail premises (paras. 2.6 to 2.21);

(b) letting of retail premises (paras. 2.22 to 2.31);

(c) implementation of improvement measures (paras. 2.32 to 2.41); and

(d) monitoring of operating expenditure (paras. 2.42 to 2.49).

Day-to-day management of retail premises

2.6 Since October 2006, the HA has adopted a marking scheme in its retail premises with the objective of sustaining a clean, hygienic and tidy environment. Penalty points will be allotted according to the seriousness of misdeeds (see Appendix C). The penalty points allotted will remain valid for a period of two years. The HA's action for tenancy termination will be triggered off when the penalty points have accumulated to 16.

2.7 The HD frontline staff and security guards conduct daily patrols of retail premises to ensure the proper use and prompt maintenance of the premises, and to monitor tenants' performance under the marking scheme. Starting from 1 July 2010, the HD has also implemented a unit-to-unit inspection system on all retail premises in a cycle of 18 months (i.e. the current cycle will end on 31 December 2011). Under this system, HD staff (or contractor staff in the case of outsourced premises) are required to visit each retail shop, market stall and CFS within the 18-month cycle to check the shop/stall conditions and to detect any breach of tenancy conditions. A quarterly progress report should be submitted to the HD senior management for monitoring purpose.

Audit observations and recommendations

2.8 Although the HA retail facilities are under daily patrol by HD frontline staff (or security guards) and the unit-to-unit inspection system has been implemented since July 2010, Audit found that there were cases of suspected abuse or improper use of retail premises. There were also cases involving suspected gambling activities, retail premises not regularly open for business, and obstruction problem. **All these cases identified by Audit during the course of this review (see paras. 2.9 to 2.19) have been referred to the HD for necessary follow-up actions.**

Unauthorised use and alteration of retail premises

2.9 Audit visit to an HA shopping centre in Tsuen Wan revealed that some storerooms appeared to have been altered by tenants for other uses without the HD's approval (see Case 1 for details).

Case 1

Unauthorised use and alteration of storerooms

1. The shopping centre has 19 storerooms available for letting to domestic and non-domestic tenants for storage purpose. As at December 2010, 9 of them were let out.

2. Audit visit on 1 December 2010 revealed the following irregularities in 3 of the storerooms:

(a) according to HD records, two adjacent storerooms let to the same tenant should be separated by a partition wall. However, Audit visit (accompanied by HD contractor's staff) found that an opening was made to the partition wall without the HD's approval. Typical domestic furniture items (e.g. tables, chairs, a cupboard, a television set, and a bed) were found inside the two storerooms (see Photograph 1), but no other goods were found. A group of four people were found playing mahjong inside one of the storerooms; and

(b) another storeroom was found to be used as an office of a logistics company and the front wall of the storeroom was replaced by a glass window, without the HD's approval (see Photograph 2). In May and June 2010, the HD received two complaints that the loading and unloading of goods at the storeroom had caused nuisance to the surrounding environment. However, the HD did not appear to have taken adequate action on the inappropriate use of the storeroom.

Photograph 1

Adjacent storerooms used for playing mahjong

Photograph 2

Storeroom used as an office

Source: *HD records and Audit visit*

Remarks: *Photographs taken by Audit on 1 December 2010*

2.10 Apart from Case 1, Audit also noted that there had been unauthorised use of storerooms for playing mahjong in another two major retail facilities. **The HD (and its contractors) needs to step up inspections and daily patrol to prevent the unauthorised use and alteration of retail premises (including storerooms).** Under the existing unit-to-unit inspection system, HD staff (or contractor staff) are only required to inspect retail shops, market stalls and CFS (see para. 2.7), but not storerooms. Audit considers that regular inspections should also be conducted on storerooms.

2.11 Audit noted that no guideline was issued to HD staff (or contractor staff) on how and when to select premises for inspection within the 18-month cycle period. **Audit considers that a risk-based approach should be adopted in the unit-to-unit inspection system, in order that high-risk cases are inspected with a higher priority and frequency.** Such high-risk cases include unauthorised use and alteration of premises (see Case 1), repeated offenders (see para. 2.14) and retail premises not regularly open for business (see para. 2.15). Audit also noted that there were cases in which irregularities (e.g. playing mahjong and sale of unauthorised items) observed by HD staff/contractors in the unit-to-unit inspections had not been reported to the HD senior management in the quarterly progress reports (see para. 2.7). The HD needs to remind its staff and contractors to report such irregularities as required.

Suspected gambling activities

2.12 Audit visits to six major retail facilities on a number of days between October 2010 and January 2011 found that there were groups of people playing mahjong/tin kau cards in some let-out retail premises (see Photograph 1 in Case 1 and Photograph 3) or in the common areas (see Photograph 4). Such activities appeared prevalent in some of the retail facilities visited by Audit.

Photograph 3

Mahjong playing at a market stall in an estate in Kowloon

Date (Time): 6 January 2011 (11:35 a.m.)

Photograph 4

Tin kau playing at a common area of a shopping centre on Hong Kong Island

Date (Time): 9 December 2010 (2:40 p.m.)

Source: Photographs taken by Audit

2.13 Suspected gambling activities in the HA retail facilities will tarnish the image of the HA and the facilities concerned. In January 1997, the HD noted that games which started off as a social gathering of senior citizens living in public housing estates had developed into concentration of undesirable activities, sometimes with triad involvement. The HD therefore issued an internal instruction requesting all estate housing managers to take positive action to deal with suspected gambling activities, including:

(a) reporting at once all such activities in retail premises and common areas to the police for appropriate action;

(b) conducting joint operations with the police; and

(c) serving notice-to-quit under the Housing Ordinance to tenants convicted of running gambling activities in HA retail premises.

2.14 It appears, however, that HD staff (and contractor staff) have not followed through the above measures. For example:

(a) in an estate in Kwai Chung, HD records showed that a market stall was used for playing mahjong in April and July 2008, but the tenancy was still renewed in August 2008. On a number of visits in November and December 2010, Audit still found that similar activities were taking place inside the same stall (as well as in some other nearby stalls and along the market corridor). Nevertheless, there was no record showing that the HD had reported such cases to the police or conducted any joint operation with the police (Note 4) during the period; and

(b) in another estate in Kowloon, upon the HD's referral, the police had taken enforcement action on a market stall on 26 October 2010 and five persons were convicted of illegal gambling on 3 November 2010. However, up to January 2011, no notice-to-quit had been served. On 29 November 2010, Audit staff observed that the stall concerned (as well as some other nearby stalls and a storeroom) was still used for playing mahjong.

There is a need for the HD to step up measures to combat the problem of suspected gambling activities in HA retail facilities.

Retail premises not regularly open for business

2.15 **According to its 2009-10 Annual Report, the HA seeks to enhance the quality of life through the provision of retail, commercial and social facilities that helps create a richer, more fulfilled and interesting life for the residents.** To achieve this objective, it is important for the HA to ensure that its retail facilities provide active services to the community. This is because a retail facility with many shops not regularly open for business will lose its attractiveness and cannot provide convenient retail services for the residents. Audit visits to a number of HA retail facilities revealed that some let-out retail premises did not appear to be open for business (i.e. non-trading) during normal business hours. Examples are shown in Photographs 5 and 6.

Note 4: *Audit noted that, in mid-2009, the HD conducted a joint operation with the police to tackle the gambling problem at the common areas of a shopping centre in Tsuen Wan. As a result, nine persons were convicted of illegal gambling in July 2009.*

Photograph 5

Cases of non-trading during normal business hours at an estate in Kwai Chung

Source: *Photograph taken by Audit on Tuesday, 23 November 2010 (3:35 p.m.)*

Remarks:

(a) Audit visited the let-out premises (as shown in the Photograph) during normal business hours on 8 October (Friday), 23 November (Tuesday), 29 November (Monday) and 23 December (Thursday) of 2010;

(b) according to the tenancy agreements, tenants would provide such trades as health care store, books and stationery, toys and models, household utensils and hardware, and dental clinic;

(c) with the exception of a dental clinic, Audit noted that all the other premises were not open for business at the times of audit visits. Some of these premises did not have signboards displaying their shop names; and

(d) the monthly rental charged for the non-trading premises ranged from $1,500 to $3,900.

Photograph 6

Cases of non-trading during normal business hours at a shopping centre in Tsuen Wan

Source: *Photograph taken by Audit on Tuesday, 23 November 2010 (12:15 p.m.)*

Remarks:

(a) Audit visited the let-out premises (as shown in the Photograph) during normal business hours on 23 November (Tuesday), 29 November (Monday), and 1 December (Wednesday) of 2010;

(b) according to the tenancy agreements, tenants would provide such trades as preserved food and confectionery, toys and models, books lending, health care store, and medical clinic;

(c) with the exception of a medical clinic, Audit noted that all the other premises were not open for business at the times of audit visits; and

(d) the monthly rental charged for the non-trading premises ranged from $2,850 to $3,200.

2.16 The prevalence of non-trading retail premises is detrimental to the image and attractiveness of a retail facility. It may also deprive other prospective traders of the opportunity to rent the premises concerned for running a normal business. As can be seen from Photograph 5, some of the suspected non-trading retail premises did not have signboards displaying their shop names. There is a risk that these premises might be used for purposes other than those specified in the tenancy agreements (e.g. for residential or storage purposes instead of the provision of retail services). In this connection, it was noted that a retail shop, which was observed by Audit as non-trading, had previously been found involved in some illegal activities (e.g. sale of illicit cigarettes in November 1998 and illegal gambling in December 2000). **The HD needs to strengthen its inspection of non-trading premises to ensure that they provide active services.**

2.17 In order to tackle the non-trading problem, the HD may consider the following improvement measures:

(a) ***"Non-trading rule" stipulated in the tenancy agreement.*** At present, there is no provision in the HA's tenancy agreements of retail shops and CFS for regulating the non-trading problem. For market stalls, the HA has stipulated a "non-trading rule" in the tenancy agreement, but it is less stringent than that stipulated by the Food and Environmental Hygiene Department (FEHD). Table 2 shows a comparison of their respective non-trading rules. **In order to provide clear guidelines for HD staff to regulate the non-trading problem in retail premises, the HD needs to consider stipulating a non-trading rule for its retail shops and CFS. Consideration should also be given to tightening the non-trading rule for the HA market stalls, making due reference to the FEHD's practice;** and

Table 2

Non-trading rule stipulated in market stall tenancy agreement

Market stall	Provision in tenancy agreement
(i) HA market stall	*"The Tenant agrees with the Landlord not to cease to carry on business at the said stall for **more than 7 consecutive days**."*
(ii) FEHD market stall	*"The Tenant shall not cease or suspend business at the Stall for **7 days or more in any one calendar month** without prior written consent of the Government."*

Source: HD and FEHD records

(b) ***Keeping non-trading records.*** The HD did not maintain records on whether retail premises were open for business on a daily basis. Such records were only kept on an ad hoc basis in response to complaints/enquiries. For example, in response to an enquiry raised by a CPC member, non-trading records were prepared in November 2010 for a shopping centre in Tsuen Wan (with market stalls), which showed that 18 (33%) of 54 let-out retail shops and market stalls were not regularly open for business (see also Photograph 6 in para. 2.15). **Audit considers that keeping non-trading records will enable the HD to have supporting evidence for enforcing the non-trading rule, and the HD needs to report to the CPC any significant non-trading problem, as well as the measures taken to tackle it.**

Misdeeds under the marking scheme

2.18 Causing obstruction in public areas is one of the scheduled misdeeds under the marking scheme implemented by the HA in October 2006 (see para. 2.6 and item (f) of Appendix C). Up to December 2010, the HD had:

(a) allotted penalty points in a total of 326 cases, most of which were related to causing obstruction in public areas; and

(b) served 1 notice-to-quit to a tenant who had accumulated 16 penalty points.

2.19 Audit found that there are areas where improvements can be made in the implementation of the HA marking scheme, as follows:

(a) ***Prevalence of obstruction problem.*** Audit visits to HA retail facilities found that, on a number of days, the problem of obstruction in public areas was still common (see Photograph 7 for example). Although the retail facilities were under regular patrol by the HD frontline staff and security guards (see para. 2.7), no enforcement action (e.g. written warning or allotting penalty point) was made to the offending tenants on the days of Audit visits. **The HD needs to closely monitor the enforcement work to combat the obstruction problem;**

Photograph 7

Obstruction problem at an estate on Hong Kong Island

Source: Photograph taken by Audit on 17 December 2010 (3:05 p.m.)

(b) ***Need to step up enforcement actions.*** Audit also found that, although written warnings/penalty point allotments had been previously made to some retail tenants, the obstruction problem persisted on the dates of Audit visits. **The HD needs to step up enforcement actions against those tenants who have repeatedly committed misdeeds under the marking scheme;** and

(c) ***HD procedures not followed.*** According to HD procedures, for those misdeeds which require warning before allotting penalty points (i.e. items (b) and (f) to (i) of Appendix C), the staff taking enforcement action should visit the site and inform the tenant that a written warning will be issued in due course. If a written warning has already been issued on the same misdeed, penalty points will be allotted. After issue of written warnings or allotment of penalty points, the information system on marking scheme should also be updated. However, Audit noted that there were cases in which penalty points were not allotted even after written warnings had been issued on the same misdeed. There were also cases in which the records in the information system were not updated after issue of written warnings or allotment of penalty points. **As the effectiveness of the marking scheme depends on the accuracy of enforcement records, the HD needs to remind its staff and contractors to strictly follow the established procedures in taking enforcement actions.**

Audit recommendations

2.20 **Audit has *recommended* that the Director of Housing should:**

Follow-up of suspected cases identified by Audit

(a) **take follow-up actions on those suspected cases identified by Audit during the course of the audit review (see para. 2.8);**

Unauthorised use and alteration of retail premises

(b) **request HD staff and contractors to step up their daily patrol work and unit-to-unit inspections to prevent unauthorised use and alteration of retail premises (including storerooms);**

(c) **provide guidelines to HD/contractor staff on the use of a risk-based approach in conducting unit-to-unit inspections, ensuring that those high-risk categories (e.g. repeated offenders and non-trading retail premises) are inspected with a higher priority and frequency;**

(d) **remind HD staff and contractors to report irregularities observed in the unit-to-unit inspections to the HD senior management in the quarterly progress report;**

Suspected gambling activities

(e) **step up measures to combat suspected gambling activities in the HA retail facilities;**

Retail premises not regularly open for business

(f) **ascertain the reasons for the prevalence of non-trading in some retail facilities during normal business hours, and take actions to address them;**

(g) **consider stipulating a non-trading rule in the HA's tenancy agreements for retail shops and CFS;**

(h) **consider tightening the non-trading rule for the HA market stalls, making reference to the FEHD's practice;**

(i) **maintain inspection records to provide supporting evidence for enforcing the non-trading rule under the tenancy agreements;**

(j) **report to the CPC significant non-trading problem, as well as the measures taken to tackle it;**

Misdeeds under the marking scheme

(k) **closely monitor the enforcement work to combat the obstruction problem;**

(l) **step up enforcement actions against those tenants who have repeatedly committed misdeeds under the marking scheme; and**

(m) **remind HD staff and contractors to strictly follow the established procedures in taking enforcement actions.**

Response from the Administration

2.21 The **Director of Housing** generally agrees with the audit recommendations. He has said that:

Follow-up of suspected cases identified by Audit

(a) the HD has investigated into individual suspected cases of improper use of retail premises and storerooms and taken tenancy enforcement actions where appropriate;

(b) regarding Case 1 in paragraph 2.9, the two storerooms shown in Photograph 1 were recovered by the HD on 31 January 2011. For the storeroom shown in Photograph 2, the HD has investigated into the case and will serve a notice-to-quit to terminate the licence on 31 March 2011;

Unauthorised use and alteration of retail premises

(c) the HD has already issued a new internal instruction to provide detailed guidelines advising HD/contractor staff to step up the unit-to-unit inspections according to the prescribed priority and the frequency based on the high-risk categories such as repeated offenders and non-trading retail premises;

(d) irregularities observed in the unit-to-unit inspections with supporting documents, if any, will be among the major items covered by the new quarterly progress report submitted to the senior management for monitoring;

Suspected gambling activities

(e) the HD will report all suspected gambling activities to the police. Tenancy enforcement actions including issuance of notice-to-quit will follow in case of conviction;

(f) regarding the market stall mentioned in paragraph 2.14(b), the HD will serve a notice-to-quit to terminate the tenancy of the stall on 31 March 2011;

Retail premises not regularly open for business

(g) the HD will review the feasibility to specify opening hours in tenancy agreements appropriate to the nature of business and customer demand in respect of the retail facilities, having regard to the best interest of the domestic tenants;

(h) apart from those newly completed shopping centres, most of the HA's residual retail facilities have relatively low business potential, particularly in ageing public housing estates. Ground floor shops and market stalls in these ageing estates are generally operating on a small scale responding to local customer needs, some of which may not be open for business during quiet hours when customers are scarce, or when the sole proprietor running the shop/stall is providing services to customers outside or is on leave. Commercial tenants would have to adjust their business modes caused by changing circumstances;

(i) regarding the audit recommendations in paragraph 2.20(i) and (j), the HD will examine the proposals and take appropriate follow-up action to improve the situation; and

Misdeeds under the marking scheme

(j) the HD will continue to strengthen enforcement action to combat obstruction in public area in accordance with the established procedures under the marking scheme.

Letting of retail premises

2.22 The HA retail premises are let out to individuals or companies mainly by:

(a) ***Open tender.*** This method applies to ordinary retail shops and market stalls. Tender notices are published in leading newspapers on every Friday and are also available on the HA website; and

(b) ***Direct negotiation.*** In a direct negotiation, prospective tenants on the client list of the selected trade are invited to submit leasing proposals to the HD for consideration. Retail premises selected for letting by direct negotiation are subject to compliance with certain criteria (e.g. where the area to be leased exceeds 250 m^2 and the type of trade can attract more customers to the shopping centre, or where the premises have failed to attract suitable bidders by open tenders).

Apart from open tender and direct negotiation, certain premises may be let out by, for example, direct allocation (for use as government offices and storerooms), restricted tender (for eligible persons affected by the Comprehensive Redevelopment Programme and clearance of estates), or short-term lettings (for unpopular premises).

Audit observations and recommendations

Long-standing vacancies

2.23 Despite various measures introduced by the HD to enhance the effective use of retail premises (see para. 2.3), many HA retail premises have remained vacant for a long time. As at December 2010, there were 349 vacant premises in the HA retail facilities, of which 98 (28%) were “committed” for various reasons (e.g. those with approved lettings, reserved for improvement, and frozen from re-letting — see para. 5.5). Table 3 shows an ageing analysis of the remaining 251 (72%) vacant premises. It can be seen that 122 retail premises had been vacant for over three years.

Table 3

Ageing analysis of vacant retail premises
(31 December 2010)

	Retail premises			
Vacant period	**Number**		**Percentage**	
≤1 year	83		33%	
>1 year to 2 years	24		9%	
>2 years to 3 years	22		9%	
>3 years to 4 years	17	122	7%	49%
>4 years to 5 years	14		6%	
>5 years	91		36%	
Total	**251**		**100%**	

Source: Audit analysis of HD records

2.24 Audit examination of the HD's arrangements for the letting of vacant retail premises revealed that there is room for improvement.

Publicising vacancies of retail premises

2.25 Vacant retail premises available for letting should be widely publicised and put up for open tender as frequently as practicable (Note 5). Audit, however, noted that these arrangements were not adequately implemented. For example, of the 251 vacant retail premises as at 31 December 2010, only 7 (3%) were put up for open tender on the same day.

Note 5: *Audit noted that, in July 2006, the CPC decided that all vacant retail premises not exceeding 70 m^2 should be put up for open tender every week.*

2.26 The provision of leasing information on site will help promote the letting of vacant premises. In 1998, the HD issued an internal instruction requesting all estate housing managers to put up “For Lease” posters on the front of vacant retail premises, in order to enhance publicity and speed up their letting. However, Audit visits to various HA retail facilities found that “For Lease” posters had not been put up on the front of many of the vacant premises.

Re-tendering vacant retail premises for letting

2.27 For a vacant premises which did not attract any bidder in an open tender, it would normally take quite a long time (39 to 44 working days, i.e. about two calendar months) for the HD to re-tender the same premises (see Table 4 for the HD’s re-tendering procedures). Therefore, if an open tender for letting out a retail premises is unsuccessful, the same premises will remain vacant for at least another two months before completing the re-tendering procedures.

Table 4

The HD’s re-tendering procedures

Procedure	Working days required
(a) Considering re-designation of trade	10
(b) Vetting tender request	4
(c) Assessing reference rent and arranging tender advertisement	15
(d) Allowing time for tender submission	10 or 15 (Note)
Total	**39 or 44**

Source: HD records

Note: For ordinary retail shops and market stalls, 10 working days were allowed for tender submission, while for retail shops in new estates and large retail premises, 15 working days were allowed.

2.28 In a re-tendering exercise, the HD staff are required to consider the re-designation of trade that is most appropriate for the premises. Audit enquiry revealed that, for some premises, HD staff might consult the estate management advisory committee concerned in trade re-designation. For some other premises, however, they might re-designate the trade based on their own knowledge and experience. As the HD staff may not have full market information on the latest retail trend, prospective tenants may not show interest in the re-designated trades in a re-tendering exercise. Case 2 is an example in which a vacant retail shop had been repeatedly re-designated for different trades in over 25 unsuccessful re-tendering exercises since 2004.

Case 2

Re-designation of trades in a shopping centre on Hong Kong Island

1. In the shopping centre, a retail shop with an area of 100 m^2 had been vacant since December 2003. The shop was equipped with a kitchen and adjacent to three other food premises.

2. Since 2004, the HD had attempted to let out the retail shop for operating various trades in over 25 open tenders, but no bidder showed interest. For example, in 2010, 6 re-tendering exercises were conducted inviting interested persons to operate different trades at this shop (see below), but there was no interested bidder.

Date of tender invitation	Trade designated in tender
(a) 15 January 2010	Leather goods, shoes and handbags
(b) 26 March 2010	Sports wear, equipment and shoes
(c) 28 May 2010	Clothing, footwear and allied products
(d) 30 July 2010	Leather goods, shoes and handbags (i.e. same as (a) above)
(e) 8 October 2010	Clothing, footwear and allied products (i.e. same as (c) above)
(f) 24 December 2010	Furniture, interior decoration and design, and lamps

3. Audit enquiry found that the responsible HD staff re-designated the trades of this shop based on their own knowledge and experience, and there was no written record on the basis for such re-designation.

Source: HD records

2.29 In Audit's view, prospective tenants should know best about what trades they are interested in operating. In this connection, Audit noted that, as approved by the CPC in May 2002, applications for operating other trades in vacant retail premises might be considered subject to compliance with certain principles (Note 6). However, it appears that the arrangement of trade suggestions by prospective tenants has not been widely promoted. For example, on the HA website, it was only stated that "the HA will determine the trade of the premises" without indicating that prospective tenants may make trade suggestions. Besides, although the HD's "For Lease" posters indicated that the HA would welcome suggestion of other trades, such posters had not always been put on the front of vacant premises (see para. 2.26). **Audit considers that, when re-letting vacant retail premises (especially those long vacant premises), the HD needs to further encourage (through promotion via the HA website and posters) prospective tenants to make trade suggestions.** Such practice will help streamline the trade re-designation work (see item (a) in Table 4), as rental assessment can be carried out after receipt of prospective tenants' suggestions.

Audit recommendations

2.30 **Audit has *recommended* that the Director of Housing should:**

Publicising vacancies of retail premises

(a) **ensure that all vacant retail premises available for letting are widely publicised. In particular, HD staff should be reminded that:**

- (i) **all vacant retail premises are put up for open tender as frequently as practicable; and**
- (ii) **"For Lease" posters are put up on the front of all vacant retail premises; and**

Note 6: *The principles are:*

- *(a) the premises are technically suitable and use for the proposed trade would be compatible with any relevant licensing requirements;*
- *(b) letting for the proposed trade is compatible with existing uses and the balance of trades and would not result in the loss of any essential trade in the retail property;*
- *(c) the nature of the proposed trade is not such that there is a likelihood of noise or other nuisance to other tenants or to residents of the estate; and*
- *(d) the proposed trade would not adversely affect the image of the HA and the retail property concerned.*

Re-tendering vacant retail premises for letting

(b) **in re-letting vacant retail premises (especially those long vacant premises), consider further encouraging prospective tenants to make trade suggestions.**

Response from the Administration

2.31 The **Director of Housing** generally agrees with the audit recommendations. He has said that:

(a) the HD has regularly put up tendering exercises through advertisements and the HA/HD website and has adopted flexible terms of letting, including short-term tenancy and longer rent-free period, with a view to leasing out long vacant retail premises in unpopular locations and in older public housing estates. The HD will continue to publicise vacancies through advertisements and the HA/HD website and re-let vacant retail premises as frequently as practicable;

(b) leasing information on the proposed trades including invitation to suggest alternative trades will also be posted on the shop front of these premises as well as on the HA/HD website; and

(c) in the longer term, the HD will also consider converting premises with limited retail potential to other uses to suit residents' needs.

Implementation of improvement measures

2.32 In recent years, the HA has implemented a number of key improvement measures for its retail premises, as follows:

(a) ***Major retail facilities.*** In October 2010, the CPC approved the HD's proposal to earmark four retail facilities for early consideration of major improvement works given their high commercial potential identified in the SWOT analysis (see para. 2.3(f));

(b) ***Markets.*** Since 2007, the HD has conducted "re-ordering" exercises in a number of markets with high vacancy rates, with a view to grouping vacant market stalls together at one side of the market in order to create a better retail atmosphere. The vacated portion of the market was re-let for other uses (such as convenience store and education institution); and

(c) ***CFS.*** In 2001, the CPC endorsed the long-term policy of closing down CFS (Note 7) in order to tackle the obstruction and environmental problems that had emerged. Since then, the letting of CFS has been frozen. In January 2011, the CPC reviewed the above policy and approved a revised leasing strategy for CFS (Note 8), including re-letting of vacant stalls, conversion to other trades, and re-grouping of vacant stalls to provide better leasing options.

Audit observations and recommendations

Priority for major improvement works

2.33 In October 2010, when considering the HD proposal for earmarking retail facilities for major improvement works (see para. 2.32(a)) to enhance their commercial potential, the CPC was informed that the priority of earmarking took into account the following:

(a) commercial value of the retail facilities;

(b) feasibility of conducting major improvement works;

(c) possible resistance to changes from existing retail tenants and views of other stakeholders; and

(d) the timing suitable for changes.

Note 7: *CFS were provided by the HA in the older public housing estates built between 1974 and 1990 to meet residents' demand for casual on-street catering and cheaper informal dining.*

Note 8: *In approving the revised leasing strategy, the CPC noted that:*

(a) the problems of obstruction and environmental nuisance arising from the operation of CFS had been mitigated since the implementation of the marking scheme;

(b) there was still some demand from residents for the food service provided by CFS; and

(c) there were views from certain quarters of society that CFS should be considered as part of the collective memory and culture of Hong Kong and therefore should be preserved.

2.34 As a result, the CPC approved the proposal to earmark four major retail facilities (at On Kay Court, Pok Hong Estate, Wah Fu (I) Estate, and Wah Fu (II) Estate) for early consideration of major improvement works based on their high commercial potential as assessed by the HD. The CPC also noted that there were 14 retail facilities which had low commercial potential. Such facilities were mainly shops on ground or podium floors of residential buildings in housing estates without a purpose-built shopping centre.

2.35 On the other hand, Audit noted that, with the exception of the retail facility at Wah Fu (II) Estate, the other three major retail facilities approved by the CPC for early consideration of major improvement works had a relatively low vacancy rate (see Table 5).

Table 5

Vacancy rates of the 4 major retail facilities earmarked for improvement works (October 2010)

Major retail facility	Vacancy rate	
	Shopping centre	**Market**
(a) On Kay Court	0%	— (Note 1)
(b) Pok Hong Estate	1%	5%
(c) Wah Fu (I) Estate (Note 2)	5%	11%
(d) Wah Fu (II) Estate (Note 2)	55%	63%

Source: *HD records*

Note 1: *There is no market facility at On Kay Court.*

Note 2: *In October 2010, the HD reported to the CPC that the HA's estate improvement programme was being planned for Wah Fu (I) Estate and Wah Fu (II) Estate, and considered that it should be opportune to consider improvements to the retail facilities in both estates to tie in with the estate improvement programme.*

2.36 **Audit considers that, apart from their commercial potential, the vacancy rates of retail facilities should also be one of the factors to be considered when setting the priority for major improvement works.** It is because leaving retail premises vacant represents a waste of valuable resources, and is not in line with the HA's strategic objective of optimising the use of commercial properties. Moreover, a high vacancy rate in the commercial facilities is also not conducive to achieving the HA's objective of enhancing the residents' quality of life (see para. 2.15). In this connection, Audit noted that the factors taken into account by the HD in priority setting (see para. 2.33(a) to (d)) did not include vacancy rates of the retail facilities concerned. In February 2011, the HD informed Audit that retail premises with a high vacancy rate often had relatively low commercial potential, and that the vacancy rate might not be reduced through major improvement works unless conversion to other uses was feasible. In Audit's view, when selecting those retail facilities **with commercial potential** for improvement works, due consideration should also be given to their vacancy rates. This can ensure that a higher priority will be given to the revitalisation of retail facilities with a high vacancy rate.

Need to reduce market vacancy rate

2.37 Although re-ordering exercises had been conducted in a number of markets (see para. 2.32(b)), there were still five markets with a consistently high vacancy rate of over 30% for the past five years (see Table 6).

Table 6

Vacancy rates of five markets
(2006 to 2010)

Location of market	**Vacancy rate as at October of the year**				
	2006	**2007**	**2008**	**2009**	**2010**
(a) Wah Fu (II) Estate	67%	66%	66%	66%	63%
(b) Kwai Shing West Estate	63%	66%	65%	59%	56%
(c) Cheung Ching Estate	48%	54%	57%	38%	50%
(d) Lai Yiu Estate	46%	31%	34%	37%	41%
(e) Pak Tin Estate	42%	37%	36%	37%	34%

Source: HD records

2.38 Audit noted that the HD had taken some improvement measures in recent years in some of these markets (Note 9). However, their effectiveness is yet to be seen, as the market vacancy rates have remained high. Audit also noted that, since the improvement proposal for the market at Kwai Shing West Estate was shelved in 2007, up to December 2010, the HD had not formulated a definite market improvement plan to address the vacancy problem. **The HD needs to take early actions to improve the situation.**

Implementation of the revised leasing strategy for CFS

2.39 As at January 2011, the HA managed 45 CFS (located at six estates), 10 (22%) of which remained vacant. The 10 vacant CFS have been frozen from letting according to the policy of closing down CFS endorsed by the CPC in 2001. In January 2011, the CPC reviewed the policy and decided to adopt a revised leasing strategy for CFS (see para. 2.32(c)). The CPC noted that if all the 10 vacant CFS were let out, there would be an additional income of around $550,000 a year. **As these CFS have been left vacant for many years, Audit considers that the HD needs to implement the revised leasing strategy to put them to gainful use as soon as possible.**

Audit recommendations

2.40 **Audit has *recommended* that the Director of Housing should:**

Priority for major improvement works

(a) **duly take into account the vacancy rates of retail facilities when selecting them for carrying out major improvement works to enhance their commercial potential;**

Need to reduce market vacancy rate

(b) **take early actions to address the long-standing vacancy problem in some of the HA markets; and**

Note 9: *For example, for the market at Lai Yiu Estate, the HD converted 7 market stalls to a convenience store in July 2008. The HD intended to conduct further market improvement works after February 2011 upon the surrendering of 6 other market stalls by the tenants. Also, for the market at Pak Tin Estate, the HD converted 21 market stalls to a non-governmental organisation service centre in October 2010.*

Implementation of the revised leasing strategy for CFS

(c) **implement the revised leasing strategy for CFS as soon as possible.**

Response from the Administration

2.41 The **Director of Housing** generally agrees with the audit recommendations. He has said that:

Priority for major improvement works

(a) the HD has been setting the priority for major improvement programmes according to a comprehensive analysis of the commercial potential of individual retail premises based on their respective strengths and weaknesses. Subject to the endorsement by the CPC, retail premises will be selected for carrying out asset enhancement works according to the priority list;

(b) vacancy rate will be a factor to be considered when analysing the commercial potential of retail premises. Those with high vacancy rates are often located in older public housing estates where the socio-demographic changes over the years have diminished the retail opportunities in these estates which may have to be dealt with through revitalisation of the estates or conversion of long vacant retail premises to other uses;

Need to reduce market vacancy rate

(c) the HD is implementing various management initiatives to reduce the vacancy rate such as market re-ordering and conversion to other uses to suit residents' needs; and

Implementation of the revised leasing strategy for CFS

(d) the HD has reviewed the strategy for CFS for some time and recently sought the CPC's approval to take forward the plan. The HD is now following up the work plan to implement the revised leasing strategy for CFS.

Monitoring of operating expenditure

2.42 To ensure that retail facilities are operated cost-effectively, the HD has set major operating expenditure benchmarks for compliance by its estate housing managers. The benchmarks set by the HD in August 2008 are shown at Appendix D.

2.43 According to the HD's internal instruction issued in August 2008:

(a) estate housing managers are required to exercise tight control to comply with the operating expenditure benchmarks; and

(b) due to special local circumstances, if the operating expenditure has to exceed the benchmarks, estate housing managers should report to their senior management with justifications that tight control has already been exercised to operate retail activities effectively.

Audit observations and recommendations

Operating expenditure benchmarks

2.44 Audit analysis of the operating expenditure of 35 major retail facilities in 2009-10 (Note 10) indicated that many of the retail facilities had their operating expenditure exceeding the HD benchmarks (see Table 7).

Table 7

Analysis of operating expenditure of 35 major retail facilities (2009-10)

Operating expenditure	Number of major retail facilities with operating expenditure benchmark exceeded (Note)	As a percentage of 35 major retail facilities
(a) Direct personal emolument (PE) costs	9	26%
(b) Cleansing and security charges	19	54%
(c) Electricity charges	8	23%

Source: Audit analysis of HD records

Note: Some retail facilities had more than one aspect of operating expenditure exceeding the benchmarks.

Note 10: *As at March 2010, the HA only operated 35 major retail facilities because 2 new shopping centres (i.e. items 25 and 26 of Appendix B) were not open for business until July and October 2010 respectively.*

2.45 Audit examination of records for 24 of the 35 major retail facilities found that:

(a) ***Reporting of non-compliance cases.*** In 2009-10, out of 17 facilities with non-compliance (i.e. those with the operating expenditure benchmarks exceeded), the estate housing managers of 12 facilities (71%) had not fully reported the non-compliance to the senior management;

(b) ***Follow-up action.*** For the 5 (17 less 12) non-compliance cases which had been reported to the senior management, no or inadequate follow-up action was proposed by estate housing managers for improving the situation. Audit also noted that the follow-up actions taken by the estate housing managers for 3 non-compliance cases reported in 2008-09 did not seem to be effective, as the situation still persisted in 2009-10 (Note 11); and

(c) ***Calculation of unit operating expenditure.*** There were errors in calculating the unit operating expenditure for the retail facilities in some estates. For example, in an estate in Kwai Chung, an area of 29,232 m^2 belonging to welfare premises (e.g. schools) was wrongly regarded as retail premises and included in the denominator for calculating the unit retail operating expenditure. As a result, the actual area (7,520 m^2) was overstated by nearly four times and the unit operating expenditure understated by about 80%.

Expenses incorrectly charged

2.46 According to an internal instruction issued in April 2009, all estate housing managers were required to charge the daily expenses to the appropriate types of business accounts (e.g. retail, car park or welfare accounts).

2.47 Audit sample checks, however, found that some of the daily expenses were not correctly charged in 2009-10. For example, Audit noted that the reported annual security/cleansing expenditure for 13 major retail facilities was unreasonably low (i.e. below $10,000), including 9 facilities with no security or cleansing expenditure. Audit selected two estates to make enquiries and was informed that the cost of the entire security contract (including the staff cost of security guards responsible for retail premises) was charged to the domestic account, and the security charges reported in the retail account included only the cost for escorting and banking cash from the estate management offices. **In order to truly reflect the operating expenditure of different operations, the HD needs to ensure that the daily expenses are correctly charged to the appropriate types of business accounts.**

Note 11: *For example, in an estate on Hong Kong Island, the direct PE cost in 2008-09 was $197 per m^2 and the estate housing manager had proposed to critically review the staff cost allocation ratio. However, in 2009-10, the direct PE cost increased to $223 per m^2.*

Audit recommendations

2.48 **Audit has *recommended* that the Director of Housing should:**

(a) **improve the current monitoring mechanism to ensure that:**

  (i) **all cases of non-compliance (i.e. those exceeding the operating expenditure benchmarks) are reported to the senior management;**

  (ii) **effective follow-up actions are taken on all cases of non-compliance; and**

  (iii) **the unit operating expenditure for the retail facilities are correctly calculated; and**

(b) **ensure that the daily expenses are correctly charged to the appropriate business accounts.**

Response from the Administration

2.49 The **Director of Housing** generally agrees with the audit recommendations. He has said that:

(a) the HD staff have been reminded to observe the internal instructions in place and report for improvement of any non-compliance cases. Periodic reviews on operating expenditure of respective items at the HD headquarters level will be conducted with a view to meeting the budget accuracy and complying with the set benchmarks; and

(b) the HD will provide specific training courses to local management staff on accounting guidelines and charging principles for business accounts.

PART 3: MANAGEMENT OF CAR PARKS

3.1 This PART examines the management of HA car parks.

Background

3.2 As at December 2010, the HA maintained a total stock of 26,977 parking spaces in 117 car parks, which were located in various public rental estates, HOS courts, Tenants Purchase Scheme estates and factory estates. Of the 117 car parks, 3% were directly managed by the HD, and 97% were outsourced to private operators or property management contractors (carpark operators).

3.3 Of these 26,977 parking spaces, 23,949 (89%) and 2,688 (10%) were available for monthly and hourly parking respectively. The remaining 340 (1%) spaces were reserved for the HD's use, loading/unloading, and school and other community uses. As at December 2010, the overall carpark occupancy rate (Note 12) was about 75%.

3.4 It has been the HA's policy to charge market rates on parking spaces, subject to the objectives of:

(a) maximising occupancy;

(b) maintaining uniformity within localities;

(c) offering concessionary rates to the disabled; and

(d) public acceptability.

3.5 HA carpark charges are reviewed annually, and are set according to vehicle types and locations of the car parks. The monthly charges for private cars are further set on a 3-tier basis according to the occupancy rates of the car parks. For hourly parking, with the HD's approval, carpark operators may adjust the hourly rate according to the local demand subject to a cap at 50% over the standard rate.

Note 12: *Overall occupancy rates were calculated for monthly parking spaces only.*

Planning the provision of parking facilities

3.6 Prior to 2009, parking facilities for public housing developments were built according to the planning standards stipulated in the 2003 edition of the Hong Kong Planning Standards and Guidelines (HKPSG). For example, the parking provision standard for private car in public housing developments was 1 space per 13–24 flats (see also para. 3.7(a)). According to HD records, the provision of public housing carpark facilities had turned out to be greater than the actual demand for many aged estates. This has led to surplus provision of parking spaces and high vacancy rates in these HA car parks, resulting in an underutilisation of valuable resources. For example, in the period 2006 to 2009, the overall carpark occupancy rates ranged from 62% to 71%.

3.7 In 2006, the HA commissioned a consultancy study to review the parking requirements for public housing developments and to recommend appropriate standards to cater for future parking demand. The consultancy study, which was completed in 2008, recommended substantial revisions to the parking standards for public housing developments, as set out below:

(a) **Private car:** to be lowered from 1 space per 13–24 flats to 1 space per 26–46 flats;

(b) **Motorcycle:** an independent motorcycle standard to be established at 1 space per 110–250 flats (Note 13); and

(c) **Light goods vehicle:** to be lowered from 1 space per 100–200 flats to 1 space per 200–600 flats.

3.8 The consultancy study's recommendations on the revised parking standards have been adopted in the HKPSG since 2009.

Audit observations and recommendation

3.9 According to the consultancy study, the parking standards for public housing developments are to be set as a range (see para. 3.7), which provides flexibility to deal with local factors and fluctuations in the economy. The local factors include availability of public transport facilities, availability of parking facilities, capacity of local road network, local traffic condition, and accessibility of pedestrian facilities.

Note 13: *Previously, the provision of motorcycle parking spaces was linked with private car parking provision in the form of a certain percentage (i.e. 5%–10%) of private car parking spaces. The consultancy study found that there was no direct correlation between the parking demand for private cars and motorcycles, and therefore recommended an independent motorcycle standard.*

3.10 The consultancy study also stated that in order to address the implications arising from local factors in parking supply and demand conditions, it was necessary to review the district-based parking standards for public housing developments in consultation with the Transport Department (TD) so that the planning standards could be further refined on this basis. In this connection, Audit noted that the HD, in consultation with the TD, has established the district-based parking standards for determining the parking provision for private cars according to the circumstances in the respective districts.

3.11 Surplus provision of carpark facilities in the past has resulted in substantial underutilisation of resources. It is important to continue to regularly review the parking planning standards, in order to prevent the recurrence of overprovision of parking spaces in public housing developments in future.

Audit recommendation

3.12 **Audit has *recommended* that the Director of Housing should, in consultation with the TD, continue to regularly review and, if necessary, refine the parking planning standards, having regard to the changing supply and demand conditions.**

Response from the Administration

3.13 The **Director of Housing** generally agrees with the audit recommendation. He has said that:

(a) planning standards have been evolved over the years. There was an older set of HKPSG before 2003. The parking standards of HKPSG for private car from 1996 to 2002 in public housing development were 1 space per 5-8 flats for HOS courts and 1 space for 13-16 flats for public rental estates. Majority of HA car parks were provided with reference to the old standards. Since 2003, the HKPSG has been amended twice to reduce the parking standards with a significant reduction in the parking requirements for public housing in the HKPSG in 2009 as a result of the HD's review in collaboration with the TD;

(b) the over-supply of parking facilities is mainly attributed to the old planning standards which specified high parking provisions. The situation has been exacerbated over the years as public transport develops and the estates' ageing population increases; and

(c) the HD has, in consultation with the TD, refined the planning standards of parking spaces, and will continue to carefully plan the provision of parking facilities appropriate to new public housing developments on a case-by-case basis.

3.14 The **Commissioner for Transport** agrees with the audit recommendation. He has said that:

(a) the TD had provided input and assistance to the HD to establish the district-based parking standards as described in paragraph 3.10; and

(b) the TD will continue to provide such support to the HD to review and refine the parking planning standards as and when necessary.

Measures to improve the utilisation of parking spaces

3.15 As stated in paragraph 3.6, in the past, there had been a surplus provision of parking facilities in public housing developments. This had led to high vacancy rates in many HA car parks, especially those located at aged housing estates. To improve the utilisation of parking spaces, the HD has taken various measures in recent years, including:

(a) conversion of surplus carpark facilities into other beneficial uses (e.g. social welfare use);

(b) letting of parking spaces to non-residents;

(c) conversion of surplus private car parking spaces into motorcycle parking spaces;

(d) offering discounts to HA shop tenants for bulk-purchase of parking coupons; and

(e) conduct of SWOT analysis for 38 car parks (with occupancy rate below 70% and with more than 20 parking spaces) in 2010 to assess their potential for conversion into other uses.

3.16 As a result of the above measures, the overall carpark occupancy rate has improved from 62% in 2006 to 75% in 2010.

3.17 In October 2010, the CPC approved the HD’s proposal to earmark three car parks for early consideration of major improvement works and/or conversion into other uses. Moreover, the HD would, in 2011-12, formulate a five-year rolling programme for the car parks to be proposed for improvements and/or conversion into other uses with regard to the results of SWOT analysis, the updated situations and other relevant factors for the CPC’s consideration.

Audit observations and recommendation

3.18 Audit supports the HD's efforts in recent years to improve the utilisation of car parks (see paras. 3.15 to 3.17). However, in December 2010, of the 117 HA car parks, 46 (39%) still had a low occupancy rate of below 70% (i.e. 7 below 30%, 10 from 30% to below 50%, and 29 from 50% to below 70%).

3.19 The HD conducted SWOT analysis of 38 car parks in 2010 (see para. 3.15(e)). The 38 car parks were categorised by the HD into four groups for follow-up actions:

(a) ***Group A (3 car parks): Suitable for conversion into other uses.*** These car parks were proposed to be earmarked for early consideration of major improvement works and/or conversion into other uses (see para. 3.17);

(b) ***Group B (13 car parks): Further studies/observations required.*** Some of these car parks appeared to have prospect for improvement in occupancy rate in the near future. For the others, initial plans for conversion into other uses had been proposed but requiring further studies;

(c) ***Group C (7 car parks): Conversion not technically feasible.*** There were technical issues which were difficult to resolve (e.g. the existing headroom of the car park was too low); and

(d) ***Group D (15 car parks): Preferred/being processed for other parking uses.*** Changes to other parking uses such as motorcycle spaces, hourly parking, letting to outsiders, etc. were considered more suitable for these car parks.

3.20 As can be seen from paragraph 3.19, further studies/observations were still required for considering the measures to improve the utilisation of a number of car parks. Among the 38 car parks, 7 were considered not feasible for conversion works. Audit notes that the HD has planned to formulate a five-year rolling programme for the car parks to be proposed for improvements/conversion into other uses for the consideration of the CPC in 2011-12 (see para. 3.17). **Given that many of the 38 car parks had a consistently low occupancy rate for many years (Note 14), Audit considers that the HD needs to expedite efforts to implement the recommendations arising from the SWOT analysis.**

Note 14: *Audit analysis of the occupancy rates for the 38 car parks from 2006 to 2010 shows that 31 (82%) car parks had an occupancy rate consistently below 70%, with 7 of them consistently below 50%.*

Audit recommendation

3.21 **Audit has *recommended* that the Director of Housing should expedite efforts to implement the recommendations arising from the SWOT analysis.**

Response from the Administration

3.22 The **Director of Housing** generally agrees with the audit recommendation. He has said that while a five-year programme for carpark improvement based on SWOT analysis will be rolled out, the HD will implement short-term measures such as change of use of parking spaces (e.g. change from private car to motorcycle parking spaces) and letting to non-residents to improve occupancy rates.

Conversion of surplus carpark facilities into other uses

3.23 In 2005, the HD conducted a feasibility study for the conversion of the sixth floor of a car park (Carpark A) into a youth services centre with recreational facilities, with a view to addressing the public concern about a lack of cultural and recreational facilities in a district in the New Territories. After deliberations with the relevant government departments, a proposal was drawn up to build an integrated children and youth services centre (together with meeting and multi-purpose rooms) at the sixth floor. The HD agreed that it would bear the capital cost of the project. The proposal was announced by the Chief Executive in his 2005-06 Policy Address.

3.24 In 2006, the CPC approved the change in the usage of the long vacant carpark (and retail) facilities for development of community services. Since then, the HD has converted some underutilised parking facilities into other uses. As at January 2011, four projects were completed and successfully leased out (see Table 8). Three other projects are under planning.

Table 8

The four completed conversion projects (January 2011)

Project	Tenancy commencement	Location (Leased area)	Leased to	For use as	Basis of rent charging (see paras. 3.26 and 3.27)
1	February 2007	Part of 6/F of Carpark A (1,120 m^2)	Organisation A	Integrated children and youth services centre	Concessionary rent
2	April 2008	Part of 5/F of Carpark A (1,274 m^2)	Organisation B	Creative media workshop	Concessionary rent
3	July 2008	1/F, 2/F and part of 5/F of Carpark A (5,534 m^2)	Organisation C	Telephone transaction centre cum volunteers and training centre (Telephone transaction centre)	Best achievable rent (Note)
4	December 2010	Level 2 of Carpark B in Kowloon (1,165 m^2)	A government department	Speed post centre	Market rent

Source: *HD records*

Note: *Audit noted that the best achievable rent was on a par with the concessionary rent.*

Audit observations and recommendations

3.25 Audit welcomes the HD’s initiative to convert underutilised carpark facilities into other beneficial uses. Nevertheless, Audit notes that there are areas where improvements can be made in the HD’s arrangements. Details are reported in paragraphs 3.26 to 3.33.

Basis of rent charging

3.26 It has been the HD's established practice to let out non-domestic premises at:

(a) **concessionary rent** for qualified non-profit-making non-governmental organisations (NGOs) which provide direct services of welfare or community-building nature to estate tenants (Note 15); and

(b) **market rent** for commercial organisations, government departments and educational institutions.

In this connection, Projects 1 and 2 (see Table 8) were considered by the HD as welfare lettings and therefore only concessionary rents were charged. For Project 4, the HD considered it as a commercial letting and therefore a market rent was charged.

3.27 **Regarding Project 3, it was a commercial letting according to HD records.** Audit noted, however, that the rent charged to Organisation C was not set at a market rate, contrary to the established practice mentioned in paragraph 3.26(b). As can be seen from Table 8, the rent was set at the "best achievable" level which was on a par with the concessionary rent normally applicable for qualified non-profit-making NGOs providing direct services of welfare or community-building nature to estate tenants (see para. 3.26(a)).

3.28 Audit noted that the HD informed the CPC in January 2008 that:

(a) Organisation C had put forward a proposal to work in partnership with the HA for the conversion of 1/F and 2/F of Carpark A (5,126 m^2) into a telephone transaction centre, and part of 5/F (408 m^2) into a volunteers and training centre. The proposal helped dispose of the vacant parking spaces at Carpark A;

(b) the setting up of the volunteers and training centre would provide job training and establish an operational base for the volunteers' team members of Organisation C. The training activities would help residents in the local community raise their skills and improve their job opportunities. The volunteers' team would provide volunteer services to local residents. The volunteer services and the volunteers so trained should be able to strengthen social network and support to the local community. Letting the premises to Organisation C would also have an added benefit of making some 2,500 additional job opportunities available to local residents;

Note 15: *As at January 2011, the concessionary monthly rent was $45 per m^2.*

(c) **the vacant carpark spaces at Carpark A did not have any retail potential.** If the site was let to NGOs, the rent would be charged at concessionary rent at the rate of cost recovery. The rent of the proposed letting to Organisation C (fixed at $45 per m^2) was on a par with the cost-recovery rent for NGOs. **Such rental level was considered the best achievable rent for the premises;** and

(d) as the carpark block was not designed for office use, considerable alteration works had to be undertaken by the HA to provide the basic provisions and to meet the special requirements of Organisation C. The total conversion cost required for the works undertaken by the HA was estimated to be $60 million, which would be equally shared between Organisation C and the HA (i.e. the amount to be borne by the HA was $30 million). The conversion cost did not cover Organisation C's internal fitting-out works and related expenses.

3.29 Audit considers that although the vacant carpark spaces at Carpark A might be considered to be without any retail potential (see para. 3.28(c)) at their existing conditions, they would have at least some commercial potential after the substantial conversion works (see para. 3.28(d)). Therefore, the HD should have assessed the rent for the converted premises, taking into account the substantial conversion costs borne by the HA (i.e. $30 million) and the proposed use (i.e. mainly for commercial instead of welfare purposes — see paras. 3.27 and 3.28(a)) of the facilities. Upon enquiry, the HD informed Audit in February 2011 that the rent charged for Project 3 was the best rent that could be achieved at the time of the lease negotiation having regard to the whole leasing package such as its location, lease term, the proposed use, details of conversion works and the split of conversion costs, etc.

3.30 In this connection, Audit noted that:

(a) Project 3 was the first HA carpark conversion project that involved commercial letting (both Projects 1 and 2 were welfare lettings). There was at that time an urgent need to implement the project in order to address public concern about the lack of facilities in the district (see para. 3.23). The project would also bring about substantial benefits to the residents in the local community (see para. 3.28(b)); and

(b) subsequent to Project 3, the HD did carry out a rent assessment on the leasing of premises in Project 4 (see Table 8 in para. 3.24), which took into account the conversion costs involved as well as the proposed use of the facility as a speed post centre (Note 16). In the event, the market rent obtained from Project 4 was much higher than the concessionary rate.

3.31 Audit considers that the practice adopted for Project 4 and more recently for a proposed leasing (see Note 16) could better safeguard the interest of the HA in the use of public resources. **For similar major conversion projects in future, the HD needs to ensure that the rent for the converted premises is assessed, duly taking into account the conversion costs and the proposed use of the premises.** In particular, the HD needs to take due account of these factors when considering the renewal of the lease for Project 3.

Signing of letter of offer and tenancy agreement

3.32 To safeguard the interests of both the landlord and the tenant, conversion works should only commence after the signing of a letter of offer. This is particularly important for Project 3 with such unconventional terms and conditions (see paras. 3.27 and 3.28). **In this connection, the HD informed the CPC at a meeting held in January 2008 that conversion works would commence only after Organisation C had signed and accepted the HA's letter of offer.** However, Audit noted that the HD had started conversion works for Project 3 in late February, more than two months before signing the letter of offer in early May 2008.

3.33 **According to the HD's internal instruction issued in January 2007, the tenant is not allowed to move in the premises unless the tenancy agreement has been executed.** Audit noted that, for Project 3, the premises were handed over to Organisation C by phases commencing 1 July 2008. The telephone transaction centre was officially opened for operation in April 2009. However, the tenancy agreement was only signed in late November 2010.

Note 16: *More recently, the HD had also carried out a similar assessment for a proposed leasing regarding the conversion of the surplus parking spaces in another car park for use as an educational institution.*

Audit recommendations

3.34 **Audit has *recommended* that, in exploring major conversion of commercial premises in future, the Director of Housing should ensure that:**

(a) **the rent for the converted premises is assessed, duly taking into account the conversion costs and the proposed use of the premises; and**

(b) **conversion works commence only after the signing of the letter of offer, and the premises are handed over to the tenant only after the signing of the tenancy agreement.**

Response from the Administration

3.35 The **Director of Housing** generally agrees with the audit recommendations. He has said that:

(a) Project 3 is a very special case. The HD will continue the practice of making rent assessment for other major conversion projects; and

(b) the HD had in fact exercised flexibility to speed up the establishment of the converted premises which was tasked to strengthen the community cohesiveness, create job opportunities and provide training for volunteers in the district concerned to cope with the Government's initiative.

PART 4: MANAGEMENT OF FACTORY ESTATES

4.1 This PART examines the management of HA factory estates.

Background

4.2 Factory estates were originally built by the Government as part of the resettlement programme to reprovision squatter factories and cottage workshops displaced by clearance. In 1973, the HA was entrusted with the responsibility of managing factory estates and the role of government agent in reprovisioning squatter factories and cottage workshops. In the late 1970s, there was a shortage of small factory units in private buildings. The HA also built a number of newer factory estates in the late 1970s and the early 1980s, peaking with a total of 17 factory estates.

4.3 In 1989, the HA reviewed the policy of factory estates. **Having regard to its core mission of providing subsidised rental housing, the HA decided to progressively absolve itself from the ownership and management of factory estates in the long term.** Since then, a number of factory estates had been cleared because of poor structural conditions or to make way for other developments such as public housing, transport infrastructure and open space, etc. As at January 2011, the HA still managed seven factory estates, providing a total floor area of 208,950 m^2. Of the seven HA factory estates, the **Chai Wan Factory Estate** (**CWFE**) was built in 1959 using old design standards without lift service. The remaining six, completed in or after 1979, were built to comparatively modern standards with lift service. Table 9 shows the particulars of these seven HA factory estates.

Table 9

Seven HA factory estates

Factory estate	Year built	Number of floors	Total floor area (m^2)	Vacancy rate as at December 2010
(A) Old factory estate without lift service				
CWFE	1959	5	6,804	— (Note)
(B) Newer factory estates with lift service				
Kwai On	1979	15	19,210	0.3%
Yip On	1980-81	10	36,370	0.6%
Chun Shing	1982	26	41,079	0.4%
Hoi Tai	1982	26	39,672	0.4%
Sui Fai	1982	24	39,729	1.6%
Wang Cheong	1984	11	26,086	1.3%
Total			**208,950**	

Source: HD records

Note: All vacancies in the CWFE have been frozen from re-letting since September 2001. As at December 2010, a vacant area of 1,692 m^2 (25% of 6,804 m^2) was frozen from re-letting.

Clearance of old factory estates

4.4 In November 2000, the HA reviewed the position of the old factory estates (those built in the late 1950s to mid-1970s without lift service). Given the obsolete design and the increasing costs of maintenance, the HA noted that the estates were approaching the point where clearance needed to be considered. To prepare for future clearance, the HA approved the implementation of an Early Surrender Scheme. Under the Scheme, tenants in old factory estates who voluntarily surrendered their tenancies before 30 June 2004 would be given a special ex-gratia allowance. In September 2001, the HA approved to freeze the letting of all vacancies in the old factory estates, as well as the following criteria as a basis for selecting specific estates for clearance:

(a) current and anticipated vacancy rate;

(b) expected use of the site when cleared;

(c) maintenance condition and anticipated need for repair and maintenance expenditure; and

(d) representations made by remaining tenants as to the pace of clearance.

Director of Audit's Report on management of factory estates

4.5 The 2005 audit of the management of HA factory estates (see para. 1.6) examined, among other issues, the progress of clearance of old factory estates. In Chapter 4 of the Director of Audit's Report No. 44 of March 2005, Audit recommended that the HD should draw up a timetable to phase out the four remaining old factory estates (i.e. the CWFE, and the Kowloon Bay, Kwun Tong and Tai Wo Hau Factory Estates) in view of their rising maintenance cost and the expected decrease in rental income due to the letting freeze. The HD agreed with the audit recommendation and said that:

(a) in March 2005, the HA Strategic Planning Committee (Note 17) approved in principle clearing the four factory estates by phases; and

(b) the CPC would work out a timetable for phasing out these four factory estates in due course.

4.6 Up to January 2011, the HA had cleared three of the four old factory estates. The CWFE (see Photograph 8) is the only remaining old factory estate which has yet to be cleared.

Note 17: *The HA Strategic Planning Committee is chaired by the Secretary for Transport and Housing. Its terms of reference include:*

(a) reviewing and endorsing the HA's corporate plan, and setting strategic guidelines and planning parameters for submission to the HA for approval; and

(b) resolving any difference which may arise among various HA standing committees in connection with the carrying out of their various businesses.

Photograph 8

The CWFE

Source: Photograph taken by Audit on 26 November 2010

Audit observations and recommendation

Need to work out a definite clearance plan for the CWFE

4.7 As early as November 2000, the HA had implemented the Early Surrender Scheme to prepare for clearance of the CWFE. Since September 2001, new letting of units in the CWFE has been frozen. Given the expected decrease in rental income due to the letting freeze, the HA should have drawn up a clearance plan for the CWFE. Audit noted that the HD had reviewed the position in 2008 and 2010. **However, up to January 2011 (after more than 10 years), the HA had not yet worked out a definite timetable for phasing out the CWFE.**

4.8 The CWFE is a 5-storey block with 378 factory units. Based on HD records, the CWFE was in poor building conditions and there were signs of dilapidation. For the past four years (2006-07 to 2009-10), the CWFE had been running at a deficit of about $2 million each year. According to the HD, the deficit would further increase as maintenance costs would continue to increase due to further deterioration in the CWFE's building conditions.

4.9 As at October 2010, there were 140 tenants occupying 284 units in the CWFE. According to a recent survey conducted by the HD:

(a) only 55 (39%) tenants were engaged in active business, most of whom were occupying ground floor units;

(b) the majority of the active tenants were eager to re-establish their business in the vicinity and were reluctant to move to other HA factory estates; and

(c) the remaining inactive tenants' resistance to clearance should be minimal.

4.10 In February 2011, the HD informed Audit that it was finalising a definite clearance plan for the CWFE.

Audit recommendation

4.11 **Audit has *recommended* that the Director of Housing should draw up, as soon as possible, a definite clearance plan for the CWFE, having regard to such factors as the building conditions, vacancy rate, and expected use of the site (see para. 4.4).**

Response from the Administration

4.12 The **Director of Housing** generally agrees with the audit recommendation. He has said that a clearance plan for the CWFE has been formulated and submitted to the CPC for endorsement in March 2011 (see Note 18 for the latest development).

Long-term development of newer factory estates

4.13 During the 2005 audit of the management of factory estates (see para. 4.5), the HD informed Audit of the position of the six newer factory estates built in or after 1979 (see Table 9 in para. 4.3), as follows:

(a) while these six newer factory estates achieved operating surplus, an attempt to sell these estates was explored in February 2001 but failed. It was because there was a lack of interested buyers in the market as the factory estates were vested with the HA by the Government under a vesting order and without a proper government lease;

Note 18: *On 10 March 2011, the CPC approved a plan to clear the CWFE and provide an ex-gratia allowance and other arrangements for the affected tenants. All arrangements would be the same as those for clearance of other old factory estates in the past. The clearance of the CWFE was scheduled for September 2012. The HA considers that the site is suitable for public rental housing development and intends to seek its allocation for that purpose.*

(b) in view of a limited supply of small factory units in the private sector, some tenants would have difficulties in finding alternative accommodation in private industrial developments; and

(c) **the HA considered it appropriate to continue managing these six factory estates for the time being, and explore the clearance/redevelopment of these factory sites in due course in the light of the changing market conditions.**

4.14 Since then, there has been no further development regarding clearance/redevelopment of the six newer factory estates.

Audit observations and recommendations

4.15 Since 1989, it has been the policy of the HA to absolve itself from the ownership and management of factory estates in the long term (see para. 4.3). However, up to January 2011 (after more than 21 years), the HD had not formulated a long-term strategy to implement the policy. Audit also noted that one of the six newer factory estates (i.e. Hoi Tai Factory Estate) had been running at a deficit for two consecutive years ($0.4 million in 2008-09 and $0.9 million in 2009-10).

4.16 **Audit has *recommended* that the Director of Housing should:**

(a) **review the position of the six newer factory estates, and explore the clearance/redevelopment of these factory sites in the light of the latest market conditions (see para. 4.13(c)); and**

(b) **develop a strategy for the long-term development of HA factory estates, having regard to the policy of progressively absolving the HA from the ownership and management of such estates (see para. 4.3).**

Response from the Administration

4.17 The **Director of Housing** generally agrees with the audit recommendations. He has said that the HD will continue to manage the six newer factory estates and review the situation from time to time.

Subletting of factory premises

Day-to-day management

4.18 As at January 2011, of the seven HA factory estates, four were managed by property management agents (PMAs) and three by HD staff. HD and PMA staff are responsible for performing various day-to-day management duties, including letting of premises, tenancy control and enforcement, environmental control, and repair and maintenance. The HD also supervises and monitors the overall performance of PMAs.

Procedures for detecting subletting of factory premises

4.19 Under the provisions of factory tenancy agreement/tenancy card, a tenant should not assign, sublet or part with possession of the factory premises without HD written permission.

4.20 According to the HD's Factory Estates Operation Manual (Factory Manual) issued in April 2001, subletting of factory premises is strictly prohibited. To help detect subletting or unauthorised use of factory premises, the Factory Manual has laid down procedures to be followed by HD staff, including:

(a) supervising PMAs' day-to-day management of factory estates, including enforcement of tenancy conditions, annual inspections and tenancy control;

(b) conducting regular patrols to help detect irregularities (e.g. subletting or unauthorised change of trade);

(c) conducting thorough inspection of each factory unit on a 18-month cycle, covering the checking of the following aspects:

    (i) any change of factory name and trade;

    (ii) the certified true copy of the application for Business Registration Certificate (BRC — Note 19);

Note 19: *The Business Registration Ordinance (Cap. 310) requires every person who carries on business in Hong Kong to apply for business registration, and to display a valid BRC at the place of business. The certified true copy of the application for BRC issued by the Inland Revenue Department displays the particulars of the businesses as provided by the persons carrying on business.*

(iii) whether the factory is operated by the tenant or by an unauthorised person;

(iv) whether machines are installed according to HD approved layout plan; and

(v) other irregularities (if found).

Upon completion of the inspection, HD staff should compile a factory inspection form (with details of the results and follow-up actions) and forward it to his senior officer for checking;

(d) if it is discovered that a factory premises has changed its name, or an application has been received from the tenant for a change of factory name, the tenant should be asked to produce an up-to-date BRC for verification of proprietorship. If evidence of subletting is found, appropriate actions should be taken; and

(e) upon discovery of subletting or unauthorised transfer, the tenant concerned should be warned in the first instance. If the situation is not rectified within a reasonable period, HD staff should interview the tenant, giving the latter a serious warning, to be followed by warning letter if the irregularity still persists. For serious and repeated cases, the HD staff should consider issuing a final warning letter and/or making recommendations for terminating the tenancies.

Audit observations and recommendations

4.21 Audit visited an HD-managed factory estate **(Factory Estate 1)** and a PMA-managed factory estate **(Factory Estate 2)** and examined their inspection records. Audit found that HD procedures had not been properly followed, and there was evidence highlighting a risk of unauthorised subletting of factory premises. Details are reported in paragraphs 4.22 to 4.27.

4.22 ***Factory Estate 1.*** According to the Factory Manual, HD staff should conduct thorough inspection of each factory unit on a 18-month cycle, covering various aspects (see para. 4.20(c)). Upon Audit's enquiry, HD staff at Factory Estate 1 could only produce inspection records from January 2010 onwards. Based on the inspection records from January to December 2010, Audit noted that HD staff had inspected 207 (73%) of the 284 units.

4.23 Audit scrutinised HD inspection reports and had the following observations:

(a) many tenants/operators could not produce the BRCs for HD staff's verification, but HD staff did not take follow-up action;

(b) there had been changes of factory name or trade for some factory units, but HD staff did not take follow-up action;

(c) there were many cases where the tenants were not present during the inspection. The personnel present in the units claimed that they were relatives, workers, or friends of the tenants. However, HD staff had not always taken adequate follow-up action to contact the tenants; and

(d) in many cases, there was no record showing that the installation of machines had been checked against HD approved layout plan.

4.24 ***Factory Estate 2.*** Audit noted that HD staff had not carried out thorough inspection of each factory unit in accordance with the procedures mentioned in paragraph 4.20(c). HD staff mainly relied on the inspections conducted by the PMAs, which mainly covered the checking of the following aspects:

(a) whether the unit was open or closed;

(b) whether there were machines in the unit;

(c) whether the unit was for industrial use; and

(d) whether there were signs of domestic use of the unit.

Audit considers that the PMAs' inspection work was not adequate to help deter subletting or unauthorised change of trade, as there was no checking of BRC or other records (e.g. tenant records showing factory name and approved trade) to ascertain whether the unit was operated by the tenant or an unauthorised person.

4.25 ***Suspected subletting of factory premises.*** Audit visits to Factory Estates 1 and 2 found that many factory units bore names or carried out trades which were different from those shown in HD records. There were also cases where some adjoining units (rented by the same tenant) were partitioned into separate premises for different trades (Note 20). Audit selected some factory units for conducting business registration search (or company search for those units run by limited companies). The results indicated that, for some of these units, the tenants were **not** the business owners. Instead, businesses were operated by third parties. Examples are shown in Cases 3 and 4.

Note 20: *During an audit visit (accompanied by HD staff) to Factory Estate 2 in December 2010, Audit noted two suspected subletting cases, which involved partitioning of adjoining factory units (rented by same tenants) into separate premises for running different trades. Subsequent to the HD's interviews with the two tenants involved, the first tenant applied for early termination of the tenancy, and the other tenant removed the partition and submitted a new BRC to the HD for record.*

Case 3

Suspected subletting of factory units at Factory Estate 1

1. According to HD records, a tenant rented 4 adjoining units (Units A1 to A4) on the ground floor of Factory Estate 1 for running a "metal windows and doors" trade. The monthly rent paid by the tenant for the 4 units was $3,200 (i.e. $800 per unit).

2. Audit noted that 3 units (i.e. Units A1, A2 and A4) bore different factory names and carried out different trades (e.g. printing and welding), while the remaining unit (i.e. Unit A3) bore no factory name. Audit conducted business registration and company search in January 2011. The results indicated that:

(a) the tenant had ceased operation in the four units since June 2003; and

(b) Units A1, A2 and A4 had been operated by different third parties (since 2000 for Unit A1, 2002 for Unit A4, and July 2009 for Unit A2).

Source: HD records and Audit research

Case 4

Suspected subletting of factory units at Factory Estate 2

1. According to HD records, a tenant rented 5 adjoining units (Units B1 to B5) in Factory Estate 2 for running a "metal ware" trade. The monthly rent paid by the tenant for the 5 units was $5,600 (i.e. $1,120 per unit).

2. Audit noted that the 5 units were partitioned into 2 separate premises (i.e. Units B1 and B2 as one premises, and Units B3, B4 and B5 as another premises). Audit conducted business registration search in January 2011. The results indicated that:

(a) Units B1 and B2 were run by a third party under a different business name (from February 2004 to September 2006 for Unit B1, and from August 2007 onwards for Units B1 and B2). Besides these two units, Audit noted that this third party also had businesses operating in two units elsewhere in the Estate (from different dates since July 2002), which were not rented by him according to HD records; and

(b) the tenant was the registered owner of the business operating in Unit B5 (Units B3 and B4 were not covered in the BRC).

Source: HD records and Audit research

4.26 Subletting of factory premises is a breach of the tenancy agreement. The audit observations in paragraph 4.25 have revealed cases of suspected subletting. **These cases have been referred to the HD for follow-up actions.**

4.27 In this connection, Audit noted that in previous arrangements endorsed by the CPC in 2002 for the redevelopment of factory estates, because the whereabouts of the tenants could not be located, ex-gratia allowance (equivalent to 15 months' market rent) was paid to the factory operators who were **not** tenants but could produce evidence that the businesses within the factory premises were operated by them. There is a risk that this might give an added incentive for subletting activities. **The HD needs to step up its efforts to combat the problem of subletting in HA factory premises.**

Audit recommendations

4.28 **Audit has *recommended* that the Director of Housing should:**

(a) **follow up on the suspected subletting cases identified by Audit (see paras. 4.25 and 4.26);**

(b) **investigate whether there are similar cases of subletting in HA factory premises and take necessary follow-up actions; and**

(c) **step up the HD's efforts to combat the problem of subletting of HA factory premises. In particular, HD staff should be reminded to strictly follow the Factory Manual procedures (including sanction measures) to detect and deter subletting.**

Response from the Administration

4.29 The **Director of Housing** generally agrees with the audit recommendations. He has said that:

(a) the HD has investigated into the individual suspected subletting cases and taken necessary actions to rectify the problem. Regarding Cases 3 and 4 in paragraph 4.25, the HD has taken appropriate follow-up actions to rectify the breaches of tenancy agreement; and

(b) the HD and PMAs will strengthen day-to-day management duties to detect misuse of factory premises and take follow-up tenancy enforcement actions where necessary.

PART 5: PERFORMANCE MEASUREMENT AND REPORTING

5.1 This PART examines performance measurement and reporting in respect of the management of HA commercial properties.

Performance management

5.2 A good performance management system helps an organisation improve its efficiency and quality of services. The setting of performance targets is an integral part of performance management. It enhances the clarity of expectations, motivates performance, and improves accountability. It is also important to ensure that a systematic performance measurement and reporting system is in place to help all stakeholders assess how effectively the organisation's resources are used in achieving its targets and strategic objectives.

Performance indicators and achievement

5.3 To facilitate coherent and effective policies and programmes to meet the HA's strategic objectives in respect of the management of commercial properties, the HD prepares an annual Programme of Activities (including key performance indicators (KPIs) and targets) for endorsement by the CPC. The HD also conducts mid-year and year-end performance reviews to assess whether the targets of the Programme of Activities are achieved. The results of the performance reviews are submitted to the CPC for information. Table 10 shows the KPIs and the performance achieved for 2008-09 and 2009-10.

Table 10

KPIs and performance achieved (2008-09 and 2009-10)

KPI	2008-09		2009-10	
	Target	**Achievement**	**Target**	**Achievement**
(a) vacancy rate for retail premises	Below 6%	5.48%	Below 5.5%	5.48%
(b) rent arrears	Below 5%	2.86%	Below 5%	2.72%
(c) operating expenditure as a percentage of income	Below 67%	57%	Below 67%	56%
(d) operating expenditure per m^2 of internal floor area of retail space per month (excluding depreciation and rates)	Below $125	$101	Below $125	$102
(e) operating expenditure per unit parking space per month (excluding depreciation and rates)	Below $245	$242	Below $245	$242

Source: HD records

Audit observations and recommendations

5.4 While Table 10 shows that all targets set for the management of commercial properties were met in the past two years, Audit has found a number of areas where improvements can be made in performance measurement and reporting (see paras. 5.5 to 5.11).

Performance information on the vacancy position

5.5 Since 2006-07, the HD has reported to the CPC that it has met the performance target to keep the vacancy rate of retail premises below a certain percentage (e.g. 5.5% for 2009-10 — see item (a) in Table 10). As at March 2010, the vacancy rate was reported to be 5.48% (see item (a) in Table 10). Audit noted that, in calculating the vacancy rate, the HD had, as in previous years, excluded "committed" areas of 9,490 m^2 from the total vacant retail areas of 18,689 m^2 (the numerator). Such vacant but "committed" areas comprised:

(a) new retail areas (7,225 m^2);

(b) retail areas with approved lettings (987 m^2);

(c) those reserved for improvement (708 m^2);

(d) those frozen from re-letting (485 m^2); and

(e) those with tenancies to be commenced (85 m^2).

However, the HD included all these committed areas in the total stock of retail areas (167,975 m^2 — the denominator) in calculating the vacancy rate (Note 21).

5.6 While items (b) and (e) above might be deemed to have been let out (notwithstanding that they were in fact vacant at the moment), the other areas (items (a), (c) and (d)) were actually not ready for letting. For example, as at March 2010, new retail areas (item (a)) comprised two new shopping centres (namely Choi Tak Shopping Centre and Yau Lai Shopping Centre) which had not yet obtained occupation permits (Note 22). Audit considers that, for the purpose of calculating the vacancy rate, all those areas which are not lettable (i.e. items (a), (c) and (d)) should have been excluded from the total stock of retail areas (the denominator). **Therefore, the vacancy rate of retail premises as at March 2010 should have been calculated to be 5.77% (Note 23). Under such circumstances, the HA could not meet the target of keeping the vacancy rate below 5.5% for 2009-10.**

5.7 **In order to fully reflect the vacancy position of commercial properties, Audit considers it useful for the HD to show additionally the percentage of committed areas (i.e. 9,490 ÷ 167,975 × 100% = 5.65% as at March 2010), analysed by categories as shown in paragraph 5.5(a) to (e).** This can provide more comprehensive management information to the CPC for reviewing and monitoring the occupancy of commercial properties.

Note 21: *The vacancy rate was calculated by the HD as follows:*
$(18{,}689-9{,}490)\div 167{,}975\times 100\% = 5.48\%$

Note 22: *Occupation permits for Choi Tak Shopping Centre and Yau Lai Shopping Centre were obtained in July and October 2010 respectively.*

Note 23: *The vacancy rate was calculated by Audit as follows:*
$(18{,}689-9{,}490)\div(167{,}975-7{,}225-708-485)\times 100\% = 5.77\%$

Customer satisfaction level

5.8 One of the HA's strategic objectives is "to optimise the use of commercial properties". The five KPIs in Table 10, which mainly measure the financial performance of commercial properties, help the CPC assess whether this strategic objective is achieved. Apart from the financial aspects, according to its 2009-10 Annual Report, the HA also seeks to enhance the quality of life through the provision of retail, commercial and social facilities that helps create a richer, more fulfilled and interesting life for the residents. However, none of the five KPIs can help the CPC assess how well the HA is performing in this respect.

5.9 Customer satisfaction level is a commonly-used performance indicator that helps measure the quality and effectiveness of services. Audit considers it a useful KPI for measuring and reporting the HA's performance in enhancing the quality of life of residents. Prior to 2003-04, the HD had conducted annual surveys to track customer satisfaction with HA shopping centres and markets. A number of KPIs were established as benchmarks to gauge customer satisfaction level which was measured on a 5-point scale (with higher points denoting higher level of satisfaction). In the 2002-03 survey, for example, the overall satisfaction level for HA shopping centres was 3.34. However, after 2002-03, the HD had discontinued conducting such tracking surveys of customer satisfaction.

5.10 Audit notes that the HD conducts annually Public Housing Recurrent Surveys which, among other things, help understand the residents' shopping behaviour, their opinions on the variety of shops in HA shopping centres, and their use of carpark facilities in public housing estates/courts. However, it does not systematically collect feedback on the residents' satisfaction level with these facilities. **To further enhance its performance management system, the HD needs to devise a mechanism to gauge, and report to the CPC, the residents' satisfaction level on various aspects of performance in respect of the management of commercial properties (e.g. security, cleanliness and trade mix).**

KPIs and targets for different types of properties

5.11 Apart from retail premises, there are no KPIs/targets to measure the vacancy position of other types of properties (i.e. car parks, factory estates, and welfare premises). For example, while the overall vacancy rate of car parks was relatively high (at 27% in March 2010), there was no relevant KPI for performance measurement and reporting to the CPC. **The HA needs to consider setting specific KPIs/targets for different types of commercial properties.**

Audit recommendations

5.12 **To enhance performance measurement and reporting, Audit has *recommended* that the Director of Housing should:**

(a) **review and revise the basis for calculating the vacancy rate of retail premises (see para. 5.6);**

(b) **consider presenting additional information to the CPC on the percentage of those vacant but committed areas, analysed by categories (as shown in para. 5.5(a) to (e));**

(c) **devise a mechanism to gauge, and report to the CPC, the residents' satisfaction level on various aspects of performance in respect of the management of commercial properties; and**

(d) **consider setting specific KPIs and targets (e.g. vacancy rate) for different types of commercial properties.**

Response from the Administration

5.13 The **Director of Housing** generally agrees with the audit recommendations. He has said that:

(a) all new premises which are not yet ready for letting will be excluded from the total stock in calculating the vacancy rates;

(b) the HD will revisit the approach in reporting the vacancy rate of different categories of non-domestic premises;

(c) the HD is very concerned about the needs of public housing tenants and the quality of management services delivered to them. Through conducting the Public Housing Recurrent Survey annually, the HD is able to gauge tenants' opinions on estate management and maintenance services and their views on the provision of shopping facilities and utilisation of car parking spaces in the estates. The HD will extend the scope of the Public Housing Recurrent Survey to cover residents' satisfaction level on management of the HA's commercial properties and closely monitor the survey findings for benchmarking purpose; and

(d) the audit recommendation in paragraph 5.12(d) will be considered in the forthcoming 2012-13 business plan for commercial properties.

PART 6: THE WAY FORWARD

6.1 This PART examines the way forward for the management of HA commercial properties.

The 2005 divestment exercise

6.2 Divestment of the HA's RC facilities was first mooted in 2000. In July 2003, the Chief Executive in Council decided that the HA's agreement should be sought to divest its RC facilities, and that the net proceeds from the divestment should entirely go to the HA. In the same month, the HA agreed in principle to divest its RC facilities and approved the establishment of the Supervisory Group on Divestment to steer the divestment project. The reasons for the divestment, according to the Administration, were two-fold:

(a) it would enable the HA to focus its resources on its core functions as a provider of subsidised public housing (Note 24); and

(b) with the cessation of production and sale of HOS flats, the HA lacked a recurrent source of income. Proceeds from the divestment would help the HA meet its funding requirements in the short term.

6.3 In taking forward the divestment, the HA decided, among other things, that:

(a) other than a small proportion of the RC facilities which might be unsuitable for divestment because of their poor location, small scale, old age or obsolete condition, all RC facilities would be divested in one go. The divestment project included 180 RC facilities;

(b) an REIT structure (i.e. The Link REIT) would be established and listed on the Stock Exchange of Hong Kong to hold the HA's RC facilities to be divested; and

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Note 24: *This objective was in line with the direction provided in the Report on the Review of the Institutional Framework for Public Housing published in June 2002, which recommended that the HA should progressively divest its non-core assets, i.e. the commercial portfolio.*

(c) at a later stage when the preparation of relevant land leases was completed, the HA would transfer the legal titles of the RC facilities to The Link REIT (Note 25).

6.4 In November 2005, The Link REIT was listed on the Stock Exchange of Hong Kong. The total proceeds received by the HA from the divestment amounted to $34.1 billion.

Developments after the divestment

6.5 Following the divestment, the HA has continued to own and manage the non-divested commercial properties, as well as those provided under new public housing developments.

Exploring opportunities to divest the remaining RC facilities

6.6 In January 2006, the Administration reported to the Legislative Council (LegCo) Panel on Housing the position of the HA's remaining and future RC facilities, as follows:

(a) **the HA stated that it would look for opportunities to divest the remaining RC facilities and those to be built in the future. The Government supported this position of the HA. At the moment, the HA had no concrete timetable for any further divestment exercise;** and

(b) the HA entered into an agreement with The Link REIT whereby the HA would offer to The Link REIT a right of first refusal in the event that the HA wished to sell certain RC facilities. This agreement was effective for a period of 10 years commencing from November 2005. If The Link REIT elected not to purchase the offered facility, the HA might sell it to any third party within two years. Otherwise the right of first refusal would apply again to that facility.

Note 25: *When The Link REIT was listed in November 2005, the HA transferred to it the beneficial ownership of all the 180 divested properties, including the legal title documents of 76 such properties. The rest (i.e. 180 − 76 = 104) of the divested properties were mostly vested with the HA by the Government through a vesting order under section 5 of the Housing Ordinance. To complete the transfer of ownership of the divested properties to The Link REIT, it was necessary for the Government to grant the land leases and Deeds of Mutual Covenant of those properties to the HA, which would then transfer the relevant legal title documents to The Link REIT.*

Latest development

6.7 In December 2009, in response to a LegCo Member's question, the Secretary for Transport and Housing said that, **at the moment, the HA had no plan to further divest its properties** and would continue to formulate conversion and improvement programmes in the light of the potential of the existing commercial facilities and customers' needs.

Audit observations and recommendations

6.8 The experience of the divestment of the HA's facilities in 2005 showed that there could be complications and problems in such a major exercise. Main issues arising from the divestment include:

(a) transfer of legal titles of divested properties (see paras. 6.9 to 6.14);

(b) role of the HA as the Deed of Mutual Covenant (DMC) manager (see paras. 6.15 to 6.18); and

(c) concerns about meeting the need of public housing tenants (see paras. 6.19 and 6.20).

Transfer of legal titles of divested properties

6.9 Owing to the large number of divested properties and the long lead time required for the HA to procure legal titles for those held under vesting orders, at the time when The Link REIT was listed in November 2005, the HA could only transfer to it the legal titles of 76 divested properties (see Note 25 to para. 6.3(c)). For the remaining 104 properties, only beneficial ownership was transferred at that time. According to The Link REIT's Initial Public Offering (IPO) Circular:

(a) it was intended that the HA would transfer the legal titles of the properties to The Link REIT in batches **by mid-2008.** However, there was no exact timeline for the transfer; and

(b) **prospective investors should be aware of the risk that in the event the Government failed to complete the transfer in a timely manner, there was no specified recourse against the Government. A protracted delay might restrict The Link REIT from its ability to dispose of the properties.**

6.10 In the course of the transfer process, the Administration found that the work involved was much more complicated and onerous than previously anticipated. One major task encountered in the exercise was the need to address new requirements, introduced by various government departments from August 2006 onwards, for addressing public concern and safeguarding the mutual interests of all stakeholders. These new requirements included:

(a) the certification of the gross floor area under a land lease;

(b) the need to carve out free-standing Government, Institution and Community facilities from lease boundaries;

(c) imposition of building height restrictions; and

(d) revisions to the Model DMC arising from updated DMC requirements and legislative amendments (such as the Building Management (Amendment) Ordinance which took effect on 1 August 2007).

6.11 Moreover, the Administration found that the procurement of land leases/DMCs was further complicated by some unforeseen complexities, including:

(a) the presence of structures with historical values within the divested properties;

(b) transplantation of vegetation over drainage reserve areas; and

(c) reservation of land stratum for new railway lines to pass through.

6.12 The HA had made efforts to expedite the procurement task, including secondment of additional staff resources to the Government Property Agency and the Lands Department to speed up the work progress. In view of the new requirements, unforeseen complexities and complications (see paras. 6.10 and 6.11), it was not able to complete the transfer of legal titles of all properties by mid-2008, as indicated in the IPO Circular (see para. 6.9(a)). The HA re-scheduled the completion date for the whole project to July 2010. The situation was reported to the Panel on Housing in March 2008 and to the Establishment Subcommittee of the Finance Committee of LegCo in May 2008. With the joint efforts of relevant government departments, the HA met the revised timeframe for the whole procurement task in July 2010.

6.13 Audit noted that there were 54 divested properties, the legal titles of which could only be transferred to The Link REIT after mid-2008. There had been some media interest that the late completion of the transfer process would cause a delay in charging Government rent on the divested properties. **Had all legal titles been transferred by the original target date of mid-2008 (i.e. on or before 30 June 2008), Audit estimated that the financial implications (i.e. notional Government rent chargeable) arising from the earlier transfer of legal titles could have amounted to some $30 million (see Appendix E).**

6.14 Audit noted that in The Link REIT's IPO Circular, the risk of delay in transfer of legal titles of the divested properties had been assessed, mainly from the perspective of The Link REIT and its prospective investors (see para. 6.9(b)). However, as far as could be ascertained, a risk assessment of such delay from the perspective of the Government and the taxpayers had not been conducted. For example, the financial implications of late transfer of legal titles of divested properties had not been assessed. The LegCo Panel on Housing had also not been apprised of such financial implications. **Audit considers that in planning a similar divestment exercise in future, the Administration should critically assess the potential financial implications of transferring the beneficial ownership of the divested properties without a definite timeline for the transfer of legal titles.**

Role of the HA as the DMC manager

6.15 For the divested RC facilities in 91 public housing estates, the HA has continued to act as the DMC manager. For the remaining divested facilities, the DMC managers are appointed by the owners' corporations of the respective HOS courts or Tenants Purchase Scheme estates. As the DMC manager, the HA is responsible for ensuring that The Link REIT complies with the DMCs and taking necessary measures to enforce the provisions of the DMCs.

6.16 In September 2009, there were concerns that The Link REIT had not yet paid the management fees relating to the "common areas" in the majority of the housing estates for July and August 2009. After the HA raised concern, in mid-September 2009, The Link REIT settled all the management fees in arrears. On 28 September 2009, the matter was discussed at a special meeting of the LegCo Panel on Housing. The Link REIT has since November 2009 effected payment of management fees by way of autopay. In April 2010, the Administration informed the Panel that the autopay arrangement had worked smoothly, and forestalled delay in payment due to the time needed for completing the administrative formalities.

6.17 Besides, according to the land leases and DMCs for those public housing estates with the HA acting as the DMC manager, The Link REIT should open to the tenants the recreational facilities on the rooftops or podiums of 100 shopping centres or car parks located in 57 housing estates under its management. At the special meeting held in September 2009 (see para. 6.16), LegCo Members expressed concerns that many recreational facilities managed by The Link REIT had become dilapidated due to improper maintenance and urged the early re-opening of the facilities concerned. The Administration assured Members that HA frontline staff would inspect the recreational facilities regularly and would follow up with The Link REIT if they noticed that any facilities were not opened.

6.18 As the HA is no longer involved in the day-to-day management of the divested RC facilities, Audit notes the difficulties that may be encountered by the HA in discharging its duties as the DMC manager of such properties. **The HA needs to continue its efforts to take effective actions (including the allocation of adequate manpower) for discharging its responsibilities as the DMC manager of the estates with divested properties. Such responsibilities will also need to be taken into account in planning a similar divestment exercise in future.**

Concerns about meeting the need of public housing tenants

6.19 Given that the provision and management of divested RC facilities have great impact on the daily life of public housing tenants, Members of the LegCo Panel on Housing at a meeting of January 2007 considered that the Administration or the HA should be responsible for ensuring the continued provision of suitable and adequate RC facilities to public housing tenants, in order to protect their interests after the divestment of RC facilities.

6.20 To address Members’ concerns about meeting the need of public housing tenants after the divestment exercise, the HA needs to obtain relevant benchmarking information on the management of commercial properties. However, in the absence of available benchmarking information on the management of commercial properties in the private sector, the HA has not been able to systematically benchmark its performance against that of the private sector (e.g. The Link REIT). **In particular, such benchmarking information on the tenants’ satisfaction level on various aspects of performance (see para. 5.10) in respect of the management of commercial properties will be most useful.**

Need to conduct a post-implementation review of the 2005 divestment exercise

6.21 In January 2006, the Administration reported that the HA would look for opportunities to further divest the remaining RC facilities and those to be built in the future (see para. 6.6(a)). In December 2009, the Secretary for Transport and Housing said that the HA still had no plan to further divest its properties (see para. 6.7).

6.22 The divestment of 180 RC facilities to The Link REIT in 2005 was the first exercise of its kind implemented by the HA. Since the divestment, The Link REIT has already been operating the divested RC facilities for over five years. There have been various issues arising from this major divestment exercise (see paras. 6.8 to 6.20). However, the HA has not conducted a post-implementation review (PIR) to consolidate the experience gained from the divestment exercise.

6.23 According to the best practice guide entitled *"A User Guide to Post Implementation Reviews"* (the Guide) issued by the Efficiency Unit in February 2009, conducting a PIR for a government project is a good practice of modern day public sector management. This is because the Government has a responsibility to make the best use of public resources to deliver services to the community, and to demonstrate accountability. The main purposes of a PIR are to:

(a) ascertain whether the project has achieved its intended objectives;

(b) review the performance of project management activities; and

(c) capture learning points for future improvements.

The Guide also emphasises that a PIR is not merely for measuring whether the project has delivered its agreed outputs, but also to examine how well the outputs delivered were matched to the actual needs that the project aimed to fulfil.

6.24 The criteria for selecting projects for PIR, according to the Guide, include:

(a) ***Importance.*** It is worthwhile to review projects which involve high costs and resources and/or have high impact; and

(b) ***Purpose.*** A PIR can be conducted to determine whether new approaches or service models should be continued, modified or adopted for wider application.

6.25 Audit considers that the 2005 divestment exercise meets the above criteria and warrants the conduct of a PIR, which can help the HA:

(a) evaluate whether the divestment has achieved the objectives of the exercise;

(b) assess whether the public housing tenants and other key stakeholders are satisfied with the management of the divested RC facilities (see also paras. 5.8 to 5.10); and

(c) draw lessons for the implementation of similar divestment exercises in future.

The outcome of such a review will also be useful for the HA to map out the way forward for its management of commercial properties, and establish a long-term strategy for optimising the use of its existing commercial portfolio (i.e. the non-divested RC facilities, and other commercial and non-domestic properties).

Audit recommendations

6.26 **Audit has *recommended* that the Director of Housing should:**

(a) **continue the HD's efforts to take effective actions (including the allocation of adequate manpower) for discharging its responsibilities as the DMC manager of the estates with divested properties;**

(b) **obtain feedback on the tenants' satisfaction level on the management of commercial properties, for the purpose of benchmarking the performance of the HA against that of the private sector;**

(c) **when planning a similar divestment exercise in future, in consultation with the Secretary for Transport and Housing and the Secretary for Financial Services and the Treasury:**

  (i) **critically assess the potential financial implications of transferring the beneficial ownership of the divested properties without a definite timeline for the transfer of legal titles; and**

  (ii) **duly take into account the need to continue to assume the responsibilities as the DMC manager of the estates with divested properties; and**

(d) **in consultation with the Secretary for Transport and Housing and the Secretary for Financial Services and the Treasury:**

  (i) **conduct a PIR of the 2005 divestment exercise to evaluate its effectiveness and to identify if there are lessons to be learnt; and**

  (ii) **based on the outcome of the review, formulate a long-term strategy and map out the way forward for the management of HA commercial properties.**

Response from the Administration

6.27 The **Director of Housing** generally agrees with the audit recommendations. He has said that:

(a) it is one of the responsibilities of the DMC manager to ensure the compliance of DMC and lease conditions. The HD, as the DMC manager of estates with divested properties, must continue to take effective action to discharge its responsibilities;

(b) as mentioned in paragraph 5.13(c), the HD will extend the scope of the Public Housing Recurrent Survey to cover residents' satisfaction level on management of the HA's commercial properties and closely monitor the survey findings for benchmarking purpose;

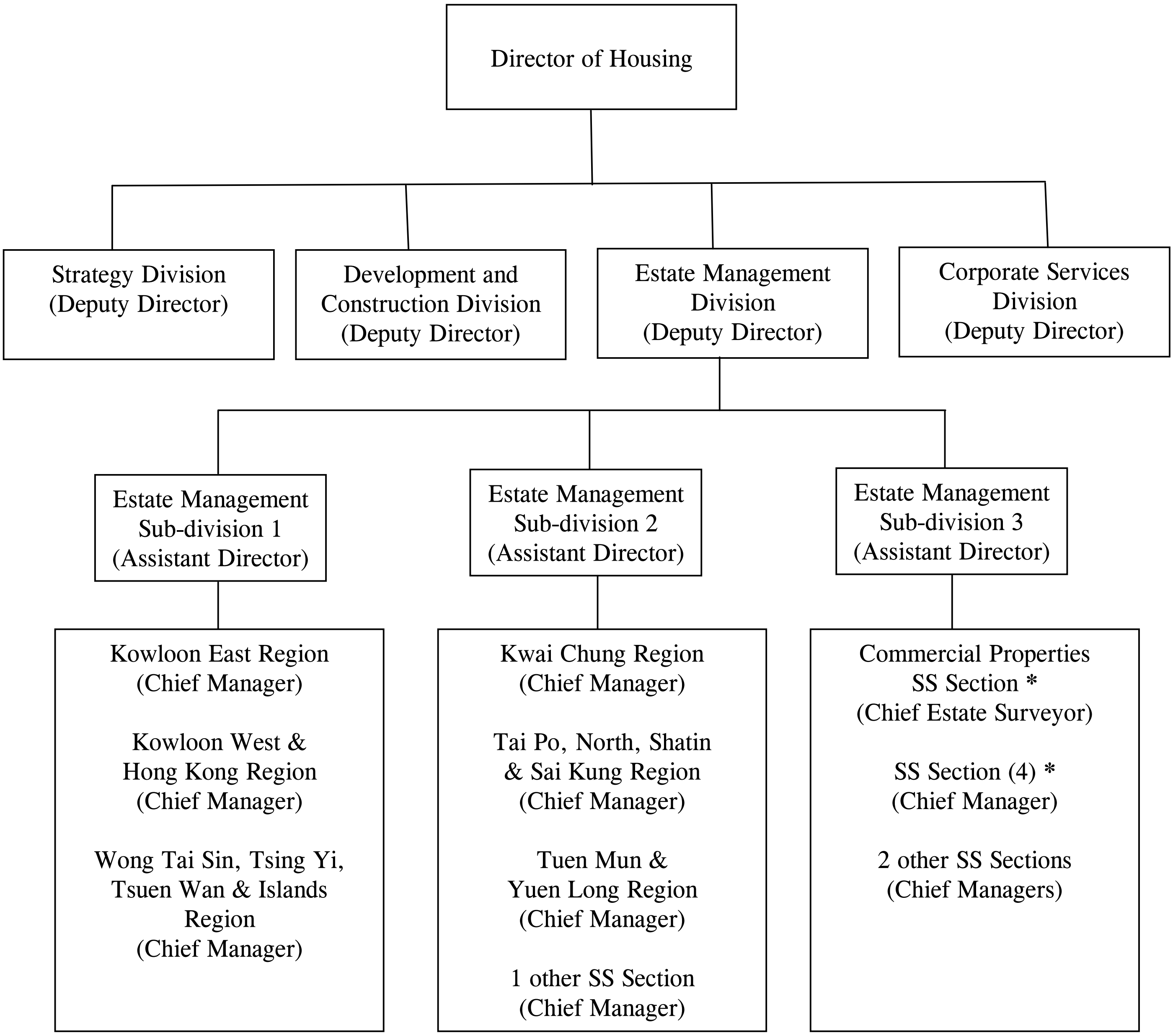
(c) the HA has no plan to further divest its RC facilities at this stage; and

(d) though the HA has no plan to divest further, it will conduct a PIR of the 2005 divestment exercise.

6.28 The **Secretary for Financial Services and the Treasury** agrees with the audit recommendations in paragraph 6.26(c) and (d).

Appendix A
(para. 1.4 refers)

Housing Department
Organisation chart (extract)
(January 2011)



Legend: * Two SS Sections are mainly involved in the management of HA commercial properties, namely:

(a) Commercial Properties SS Section: for formulating and reviewing the strategy and policy matters for HA commercial properties; and

(b) SS Section (4): for monitoring the management, valuation and letting matters relating to HA non-domestic properties (except commercial centres).

Source: HD records

Appendix B
(para. 2.2 and Note 10 to
para. 2.44 refer)

Major retail facilities
(31 December 2010)

Type of facilities	Estate/HOS court		Year opened	Retail area (m^2)
Shopping centre	1.	Wah Fu (I) Estate	1967	9,932
	2.	Cheung Ching Estate	1977	3,821
	3.	Lai Yiu Estate	1977	1,813
	4.	Nam Shan Estate	1977	4,464
	5.	Wah Fu (II) Estate	1978	4,733
	6.	Cheung Shan Estate	1979	3,554
	7.	Pak Tin Estate	1979	4,464
	8.	Shek Kip Mei Estate	1979	8,876
	9.	Ching Lai Court	1981	535
	10.	Pok Hong Estate	1982	5,345
	11.	Yue Tin Court	1983	873
	12.	On Kay Court	1984	4,228
	13.	Siu Hong Court	1984	4,745
	14.	Lung Poon Court	1987	1,999
	15.	Tin Yan Shopping Centre	2002	3,775
	16.	Lei Muk Shue Shopping Centre	2004	7,955
	17.	Hoi Lai Shopping Centre	2005	3,801
	18.	Kwai Chung Shopping Centre	2005	7,698
	19.	Mei Tin Shopping Centre	2005	3,018
	20.	Shek Pai Wan Shopping Centre	2005	1,338
	21.	Ching Ho Shopping Centre	2008	2,370
	22.	Choi Ying Place	2008	1,062
	23.	Tin Ching Shopping Centre	2008	1,407
	24.	Upper Ngau Tau Kok Shopping Centre	2009	1,046
	25.	Choi Tak Shopping Centre	2010	4,174
	26.	Yau Lai Shopping Centre	2010	3,270

(para. 2.2 and Note 10 to para. 2.44 refer)

Type of facilities	**Estate/HOS court**	**Year opened**	**Retail area (m^2)**
Shops on ground floor or podium	27. Choi Hung Estate	1962	4,467
	28. Ma Tau Wai Estate	1962	1,642
	29. Fuk Loi Estate	1963	2,449
	30. Ping Shek Estate	1970	5,950
	31. Mei Tung Estate	1974	1,541
	32. Kwai Shing West Estate	1975	5,556
	33. Lai King Estate	1975	5,012
	34. Hing Wah (II) Estate	1976	3,497
	35. Yue Wan Estate	1977	4,509
	36. Fu Shan Estate	1978	4,639
	37. Chak On Estate	1983	1,939

Source: HD records

Appendix C
(paras. 2.6, 2.18 and
2.19(c) refer)

Scheduled misdeeds under the marking scheme

The scheduled misdeeds under the marking scheme and the penalty points to be allotted are as follows:

	Misdeeds	Penalty points
(a)	Unauthorised sale of cooked food/operation of food factory (Note 1)	7
(b)	Denying entry of the HD/contractor staff for inspection or repairs (Note 2)	7
(c)	Disposing of trade refuse/junk/rubbish indiscriminately in public areas	5
(d)	Accumulating refuse/wastes inside the leased premises, creating offensive smell and hygienic nuisance	5
(e)	Unauthorised tapping/improper use of water from the HA's water points	5
(f)	Causing obstruction in public areas (Note 2)	3
(g)	Deposit of stuff indiscriminately atop the market stall (Note 2)	3
(h)	Causing blockage of floor drain and refusing to take timely remedial action (Note 2)	3
(i)	Overspill of exclusively used grease trap (Note 2)	3

Source: HD records

Note 1: Penalty points will be allotted for partial change/operation on a small scale in addition to the designated trade. Tenancy enforcement action against unauthorised change of trade that totally deviates from the designated trade will be taken in accordance with the terms of the tenancy agreement.

Note 2: Warning will be given to the tenant before allotting penalty points under these misdeeds.

Appendix D
(para. 2.42 refers)

Operating expenditure benchmarks for retail facilities

Operating expenditure	Benchmark
(a) Direct personal emolument costs	\$80 to \$120 per m^2 lettable per annum
(b) Cleansing and security charges	\$109 to \$202 per m^2 let per annum
(c) Electricity charges	(i) Shopping centres only (without air-conditioning): \$100 or below per m^2 lettable per annum (ii) Markets only (without air-conditioning): \$130 or below per m^2 lettable per annum (iii) Shopping centres and markets (without air-conditioning): \$130 or below per m^2 lettable per annum (iv) Shopping centres only (with air-conditioning): \$340 or below per m^2 lettable per annum (v) Shopping centres and markets (with air-conditioning): \$670 or below per m^2 lettable per annum

Source: HD records

Appendix E
(para. 6.13 refers)

Notional Government rent chargeable

Year in which Government leases were granted	Number of properties involved	Notional Government rent chargeable (Note) ($ million)
2008-09 (1 July 2008 to 31 March 2009)	20	3.7
2009-10	30	21.5
2010-11 (up to 14 July 2010)	4	4.7
Total	**54**	**$29.9** **(say $30)**

Source: *Audit analysis of the Rating and Valuation Department's records*

Note: *Based on the rateable values (provided by the Rating and Valuation Department) of the properties concerned, Audit calculated the notional Government rent chargeable by taking 3% of the rateable values of the properties, apportioned according to the hypothetical liable period between the original target date of completion of legal titles and the actual commencement date of the respective land leases.*

Acronyms and abbreviations

Audit	Audit Commission
BRC	Business Registration Certificate
CFS	Cooked food stalls
CPC	Commercial Properties Committee
CWFE	Chai Wan Factory Estate
DMC	Deed of Mutual Covenant
EMD	Estate Management Division
FEHD	Food and Environmental Hygiene Department
HA	Hong Kong Housing Authority
HD	Housing Department
HKPSG	Hong Kong Planning Standards and Guidelines
HOS	Home Ownership Scheme
IPO	Initial Public Offering
KPIs	Key performance indicators
LegCo	Legislative Council
m^2	Square metres
NGOs	Non-governmental organisations
PE	Personal emolument
PIR	Post-implementation review
PMAs	Property management agents
RC	Retail and carpark
REIT	Real Estate Investment Trust
SS	Support Services
SWOT	Strength-weakness-opportunity-threat
TD	Transport Department