

HOUSING DEPARTMENT (HD)

***Case No. OCAC 39/94**

Complaint against the HD - mishandling the complainant's application for the purchase of a flat in the Home Ownership Scheme (HOS)

Mr A is the tenant of a Public Housing Estate and had been paying double rent since April 1990. In January 1994, he submitted an application to the Estate Office for the purchase of a HOS flat and reckoned that he should have the "second priority" green form status (i.e. HOS second priority) as he fulfilled the condition of paying double rent for over three years. However, he later found out that his application was only processed as an ordinary green form without any priority. Mr A subsequently complained to this Office against the HD for mishandling his HOS application so that he had not been accorded with HOS second priority status.

During the investigation, this Office found the following -

- (a) Mr A and his family moved into his present premises in 1969. Following the implementation of the Housing Subsidy Policy (HSP), Mr A had to pay double rent from April 1990 as his family household income exceeded the Subsidy Income Limit.
- (b) In April 1993, the HSP was revised: only household whose income exceeded three times of the Waiting List Income Limit (WLIL) needed to pay double rent. Those exceeded twice but below three times of the WLIL need to pay 1.5 times of the rent. As a result, HD sent a letter in May 1993 to Mr A informing him of the revised HSP. He was asked to complete and submit his family income declaration by the end of June 1993 if he wanted to pay less than the double rent. Mr A submitted his declaration form in June but without documentary income proofs.

- (c) Around April 1993, Mr A requested the deletion of the names of two of his family members from the tenancy.
- (d) HD finally obtained the required income proofs from Mr A in December 1993. But he did not indicate as to whether he wished to apply for normal rent with retrospective effect from 1 April 1993, the date on which the revised HSP came into force or 1 May 1993 after the deletion of his two household members.
- (e) The HOS Phase 15C was put on sale in November 1993 and 500 units had been set aside for HOS second priority applicants. Mr A submitted his HOS application on 4 January 1994 and was advised by HD staff that his application to pay normal rent which would take retrospective effect from 1 May 1993 would render him ineligible for the HOS second priority unless he withdrew his application for normal rent payment. He after considering the matter did not withdraw his application for normal rent payment. As a result, his HOS application was not accorded HOS second priority status. The Estate Office sent him a letter on the same day by ordinary mail to confirm his wish to pay normal rent with effect from 1 May 1993 and convey HD's approval-in-principle. But Mr A claimed that he had never received this letter.
- (f) Mr A approached the Estate Office to revoke his decision to pay normal rent on 3 February 1994. This was turned down because the revocation would not help change his position as the ballot for the HOS Phase 15C had already been drawn on 27 January 1994.
- (g) On 7 February 1994, the Estate Office delivered a formal letter to Mr A informing him of the approval for him to pay normal rent with retrospective effect from 1 May 1993.

After having taken account of the following, this Office concluded this complaint was not substantiated -

- (a) it was clear that Mr A had informed the HD of the change of his household income. The HD staff had been actively handling his application for normal rent payment ever since July 1993 but his application was pending because he did not submit the necessary income proofs till December 1993;
- (b) the crucial point in this complaint was related to whether Mr A had been

briefed on the implications as well as inter-relationship between his two applications i.e. his application to pay normal rent with effect from 1 May 1993 and his HOS application, at his meeting with the Estate Office staff on 4 January 1994. This Office had reasons to believe that the Estate Office staff had mentioned the inter-relationship between the two applications as the HOS second priority status hinged on whether normal or double rent was paid. This Office also saw no reason why the Estate Office staff had not explained the situation and various implications to Mr A or had acted contrary to his wish thus purposely denying him of his second priority status; and

- (c) Mr A must have indicated his agreement that his application for normal rent payment should be processed on the understanding that he would not be accorded with the HOS second priority status. Otherwise, the Estate Office staff would not have sent a letter conveying approval-in-principle on 4 January 1994.

As a result of this complaint, this Office recommended that the Director of Housing to remind staff of the need to confirm matters of importance in writing by the Department and by the tenants, where appropriate, to avoid misunderstanding and unnecessary argument in future. This Office also suggested the Director to take all possible steps to ensure correspondences concerning matters of importance to reach the tenants. The Director of Housing accepted these two recommendations. Further, as an additional measure to prevent loss of mail to tenants and to facilitate the delivery of mails by postman, all recently completed housing blocks were provided with centrally located nests of letter box. Regarding the 50 older estates that were built in the 1980s, these installation will be made under a phased programme.