

# LCQ22: Car parks owned or sold by Link Real Estate Investment Trust

Following is a question by the Hon James To and a written reply by the Secretary for Development, Mr Michael Wong, in the Legislative Council today (March 27):

Question:

It is learnt that since 2014, Link Real Estate Investment Trust (Link REIT) has sold one after another its car parks located within or near public housing estates and housing courts. Some acquirers have in turn divided up and sold the parking spaces of the car parks concerned to individuals. On the other hand, it has been stipulated in the land leases for some of the car parks that the relevant parking spaces are for parking only by vehicles of the residents, occupiers or bona fide visitors of the housing estates or courts concerned (user restriction). In this connection, will the Government inform this Council:

(1) whether it knows the following information about each of the car parks which are owned and which have been sold by Link REIT (set out in a table):

(i) the name of the housing estate/court concerned;  
(ii) the number of parking spaces provided; and  
(iii) a breakdown of the number of parking spaces by type of their owners (i.e. Link REIT, other companies and individuals), type of vehicles that may be parked thereat, and whether any user restriction is currently in force;

(2) whether it knows, in respect of the three types of parking spaces currently owned by Link REIT, other companies and individuals respectively, the number of those parking spaces the land lease of which contains user restriction clauses; among such parking spaces, the number of those the owners of which have been granted by the Lands Department waivers for complying with such clauses, and a breakdown of the average waiver fees by type of vehicles that may be parked at such parking spaces;

(3) of the measures put in place to ensure compliance by individual owners of the parking spaces with the land lease conditions (in particular the user restriction clauses); whether, in the past three years, it instituted prosecutions against or imposed punishments on those persons who had violated the relevant land lease conditions of the parking spaces; if so, of the details and the number of such cases; and

(4) whether it has measures in place to ensure that the prospective buyers of individual parking spaces know if the land leases concerned contain user restriction clauses, e.g. by making public whether individual parking spaces in such car parks are subject to such clauses?

Reply:

President,

Having consulted the Transport and Housing Bureau (THB), my consolidated reply to various parts of the question is as follows.

(1) Based on the information provided by the THB, the details of the relevant car parks are at Annex I.

(2) In 2005, the Hong Kong Housing Authority divested commercial and car parking properties to LINK, including 178 car parks. The lease conditions for 176 of these car parks contain restrictions on the user of parking spaces. Should waiver applications be made by the owners for waiving the relevant restrictions on user of car parks under leases, the Lands Department (LandsD) would process these applications in accordance with the established procedures, which include consulting the District Offices concerned, the Planning Department, the Transport Department, the Housing Department, and other relevant policy bureaux/government departments. Based on LandsD's currently available information, as at end-August 2018, LandsD has approved 20 temporary waivers permitting the use of relevant car parks by users other than those specified under leases, which involve a total of 261 parking spaces in 20 car parks. The details of these 20 waivers are at Annex II.

The waiver fee is assessed on the basis of the increase in rental value of the premises with the user permitted after the issuance of the waiver letter. As the waiver fee assessment for different housing estates/courts is subject to different effective dates, locations, and other restrictions, etc., it would not be appropriate to draw any general comparisons merely based on the average waiver fee.

(3) A land lease is a private contract signed between the Government and a land owner. Lease enforcement actions are undertaken by LandsD in its capacity as the landlord in accordance with the lease conditions, and do not involve law enforcement or prosecution measures.

In respect of lease enforcement, as with other private properties, LandsD mainly acts on complaints and referrals about breaches of the leases, by conducting inspections and taking follow-up actions in accordance with the existing procedures. Depending on the circumstances, LandsD will also consult the relevant policy bureaux/government departments and seek legal advice. If breaches of the lease conditions are confirmed, LandsD will take appropriate lease enforcement action.

Generally speaking, land leases do not require the owners to pay punitive damages in breach of lease conditions. If breaches of the lease conditions are substantiated, LandsD will handle the cases based on individual circumstances, including demanding the owners to rectify the breaches. Where the breaches have not been rectified, LandsD will consider taking further actions, including registering warning letters at the Land Registry (commonly known as "imposing an encumbrance"), and re-entry of land or vesting the relevant interests in The Financial Secretary Incorporated by

invoking the provisions of the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126).

Over the past three years, with regard to the relevant car parks divested in 2005, LandsD received complaints concerning the alleged breaches of user restriction by the owners of 13 car parks, and conducted 22 site inspections and issued 24 follow-up letters in accordance with existing procedures. After conducting investigations and seeking legal advice, no breach of the relevant lease conditions have been substantiated.

(4) The transaction of parking spaces is no different from that of other properties. Prospective purchasers should pay attention to the contents of important documents, such as the conditions of relevant land lease, deed of the property, and deed of mutual covenant, etc., and seek independent professional advice.

With regard to the conditions of individual leases, including any restrictions on the user of parking spaces and their specific details, prospective purchasers may inspect the relevant leases at the Land Registry.