

Department/Organisation: Housing Department (“HD”)
Case concluded in: January 2017

HD refused to provide a tenant with rental information relating to other tenants in its factory estate

The Event

The complainant, a tenant in a factory estate of the Hong Kong Housing Authority (“HKHA”), was dissatisfied with the rate of rental increase imposed by HD, the executive arm of HKHA, upon renewal of his tenancy. He requested HD to explain how rent was determined and to provide the percentages of rental increase applied to other tenants in the same factory estate, and the actual amounts of their rents. However, HD rejected the complainant’s request for such information, on the grounds of “internal information”.

Subsequently, HD admitted that it was improper to cite “internal information” as the reason to withhold information. Instead, HD invoked paragraph 2.14(a) of the Code on Access to Information (“the Code”), i.e. “third party information”, as its reason for non-disclosure. HD argued that the rental information was mutually held by HKHA and the tenants, and hence constituted “third party information”. Besides, HD had previously refused to disclose any rental information whenever such enquiries were received. It thus believed that tenants would expect their rental information to be kept confidential. HD had also consulted the tenants concerned and they all did not agree to disclosure of the rental information in respect of their units.

Our Findings

We consider that HD, which determines the new rent upon tenancy renewal, is the owner and holder of the rental information. Such information is neither provided by the tenant to HD nor held by HD on behalf of the tenant, and so should not be considered as “third party information”.

In the tenancy agreements of the factory estate concerned, we did not find any terms or conditions about confidentiality of rental information, nor was there any explicit or implicit understanding between HKHA and the tenants that the rental information would not be disclosed. Moreover, we do not see any harm that would be caused to the Department or the tenants if the rental information is disclosed. Quite the contrary, since the factory estate is a public resource, we consider that disclosing the rates of rental adjustment and the actual rents charged for factory units would better serve the public interest, as it would allow factory tenants and the public to evaluate whether HD’s mechanism for rent assessment is fair and just. Even if HD had all along refused to disclose rental information, that is not a valid reason for withholding information.

Outcome

This Office recommended that HD reconsider the complainant's information request in accordance with the Code. It should fully disclose the information to the complainant, unless it manages to come up with a valid reason under Part 2 of the Code for non-disclosure.