

立法會
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LegCo Panel on Planning, Lands and Works

**Minutes of special meeting
held on Tuesday, 21 November 2000, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Dr Hon TANG Siu-tong, JP (Chairman)
Hon LAU Ping-cheung (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon James TO Kun-sun
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon IP Kwok-him, JP

Non-Panel members attending : Hon Andrew CHENG Kar-foo
Hon Henry WU King-cheong, BBS

Members absent : Hon WONG Yung-kan
Hon LAU Wong-fat, GBS, JP
Hon Timothy FOK Tsun-ting, SBS, JP

Public officers attending : **Agenda Item I**

Mrs Helen CP Lai YU
Head, Task Force on Building Safety and
Preventive Maintenance

Mr Kevin CHOI
Member, Task Force on Building Safety and
Preventive Maintenance

Mr C M LEUNG
Director of Buildings

Mr Geoffrey WOODHEAD
Principal Assistant Secretary for Planning and Lands (Buildings)

Mr Francis LO
Principal Assistant Secretary for Home Affairs

Mr H T LUI
Deputy Director of Home Affairs

Agenda Item II

Mr Geoffrey WOODHEAD
Principal Assistant Secretary for Planning and Lands
(Buildings)

Mr C M LEUNG
Director of Buildings

Mr K M MO
Assistant Director of Buildings
(New Buildings 1)

Mr Paul PANG
Head of Building Innovation Unit
Buildings Department

Agenda Item III

Mr Gary Y S YEUNG
Principal Assistant Secretary for
Planning and Lands (Lands)

Miss WONG Yuet-wah
Assistant Secretary for Planning and Lands (Lands)

Mr A K PATON
Assistant Director of Lands (Acquisition)

Ms Angela CHAN
Senior Estate Surveyor(Acquisition Special Assignment)
Lands Department

Ms Grace KWOK
Assistant Secretary for the Environment and Food (C) 1

Clerk in attendance : Miss Odelia LEUNG
Chief Assistant Secretary (1)1

Staff in attendance : Mrs Mary TANG
Senior Assistant Secretary (1)2

I Building safety and timely maintenance : *To promote timely maintenance*
(LC Paper No. CB(1)181/00-01(01))

The Head of Task Force on Building Safety and Preventive Maintenance (HTF) thanked members for giving the Task Force a chance to exchange views with them on the ideas for promoting timely maintenance for private buildings. She informed members that this would be the first of a series of consultation held on building safety and timely maintenance. The Task Force would later consult members on the proposals to tackle unauthorized building works (UBWs) and to control advertisement signboards. District Councils, relevant professional and other bodies and members of the public would also be consulted on these proposals.

2. With the use of a computer power point, the Member, Task Force gave a presentation on the subject, making reference to an information booklet entitled “For a Culture of Building Care - Building Safety and Timely Maintenance” which was tabled at the meeting.

(Post-meeting note: The information booklet was circulated to members vide LC Paper No. CB(1) 210/00-01)

Target buildings for improvement

3. On the Chairman’s enquiry on the number of buildings which required improvement, the Director of Buildings (D of B) made the following points -

- (a) There were over 40,000 buildings in Hong Kong. Of these, about 11,000 buildings required improvements;
- (b) The Buildings Department (BD) had recently launched a pilot on “Coordinated Maintenance of Buildings Scheme” (CMBS) for joint action with other departments and for assistance to owners on discharging their obligation to maintain their buildings; and

- (c) Under CMBS, 150 target buildings had been identified for improvement. With the necessary support from departments and owners concerned, BD would consider further extending the number of target buildings.

4. Mr Abraham SHEK enquired whether the 150 target buildings for improvement would include buildings located in the areas targeted for urban renewal as he was concerned that it would be a waste of resources if these buildings were so included. In response, D of B advised that of the 150 target buildings for improvement, four of these were located within the target urban renewal areas. Since the urban renewal process normally took a long time to complete, there was a need to repair and maintain buildings located within the urban renewal area, particularly those which might pose a safety hazard to the public.

The mandatory scheme versus the voluntary scheme

5. Ir Dr Raymond HO opined that the paper provided by the Administration lacked substance and that its proposed course of action was not proactive. He said that the public was aware of the need for building maintenance but there were inherent difficulties in mobilising owners to co-operate and shoulder their own responsibilities. Years ago, the Administration had contemplated a mandatory scheme requiring owners to inspect and maintain their own buildings. However, no further development was made ever since. He enquired whether the Administration had abandoned the mandatory scheme and resorted to a voluntary scheme to encourage owners to inspect and maintain their buildings.

6. HTF stated that she did not consider it a passive measure to encourage owners to maintain their own buildings. Through the continued efforts of BD, the rate of compliance with repair orders had increased from between 20% to 30% to between 70% to 80%. It was hoped that with improved public awareness on the need for maintenance, an even higher compliance rate could be achieved. The Administration had not abandoned the idea of setting up a mandatory scheme for building inspection and maintenance. However, with the pilot CMBS for joint assistance to owners and, as necessary, concerted enforcement, Government should give the pilot time to take effect. In the light of experience, Government would assess its effectiveness and consider whether or not to legislate. If upon review of the pilot scheme on CMBS, it was found that the existing measures had failed to achieve the desired results, the Administration would consider the need for introducing a mandatory building inspection and maintenance scheme.

7. D of B added that it might not be in the best interest at the present stage to proceed with a mandatory building inspection and maintenance scheme without testing the effectiveness of the present and proposed measures to promote building maintenance. Under the pilot CMBS, a building coordinator from BD was assigned to survey each building jointly with departments concerned. The response from

owners so far had been very positive. The Administration would also consider new measures such as contracting out services, which would maximize the available resources. The effectiveness of existing and new measures would be reviewed before considering the need for introducing a mandatory scheme. He pointed out that the setting up of a mandatory scheme would likely entail a higher degree of Government intervention. He said that the Administration was open minded and would welcome members' views on the matter.

8. The Deputy Director of Home Affairs said that the Home Affairs Bureau and the Home Affairs Department had supported and assisted the Task Force in the promotion of timely maintenance. However, time was needed to coordinate resources and to assess the results of present and proposed measures to promote building maintenance. Owners Corporations (OCs), being voluntary agencies, might not always be able to fully discharge their responsibilities. The Administration had been providing assistance to OCs in building maintenance and progress had been made.

9. Ir Dr Raymond HO expressed disappointment over the Administration's explanations. He pointed out that the idea of a mandatory inspection scheme for aged buildings was first brought up by the Administration. However, years later, the Administration appeared to have wavered and changed its stance. HTF reiterated that the Administration had not abandoned the idea of launching a mandatory scheme. Three years ago when the property market was at its peak, there were divergent views as to whether the mandatory scheme should be introduced. However, the market sentiments had changed and speculative activities were no longer the trend these days. Owners had higher aspirations of their living environment and were more concerned about the need for preventive maintenance. Moreover, any changes in legislation would require time and Government's concern was to proceed as soon as possible, making use of existing legislation.

Financial assistance to building owners and OCs

10. On Ir Dr Raymond HO's enquiry about the position of the Building Safety Improvement Loan Fund and the Fire Safety Improvement Loan Fund and the ways to deal effectively with irresponsible owners who failed to comply with the repair notices, HTF advised that BD had received 363 applications for loans under the Building Safety Improvement Loan Fund. 262 applications had been approved, involving a loan amount of \$9.6 million. Meanwhile the Fire Service Department had received five applications for loans under the Fire Safety Improvement Loan Fund of which one application for \$160,000 was approved. Judging from these figures, it was evident that the two loan funds had not been well utilized. The Task Force thus saw the need for merging the two loan funds to provide more effective support to owners in need. It also proposed to enlarge the coverage of the loan, to liberalize the eligibility criteria and to simplify procedures so that it would be more user-friendly. The ambit of the loan funds should also be broadened to cover all types of private buildings and costs incurred for repair and maintenance of lifts, slope safety works and clearance of

UBWs.

11. Noting that only a small percentage of the two loan funds had been used, Ir Dr HO suggested that consideration should also be given to extending the ambit of the two loan funds to cover the inspection costs incurred by owners.

12. D of B said that with the broadening of the ambit of the loan funds to cover the removal of UBWs and the sharp increase in the rate of compliance with repair notices, the effectiveness of the existing measures in encouraging owners to maintain their buildings would be further enhanced.

13. Mr IP Kwok-him sought clarification on how a charge could be made against the titles of owners who declined to contribute their due share towards maintenance of the building. Sharing the same concern, Mr Henry WU King-cheong enquired how the Administration proposed to deal with problems arising from the difficulty in arranging the sale of these flats.

14. HTF explained that under sections 19 and 20 of the Building Management Ordinance, some OCs might sell or register charges against flats in debt in certain circumstances in the exercise of their duties for management of the building. Therefore, to resolve the difficulties in raising funds for major repairs and maintenance from irresponsible or uncooperative owners, the Task Force suggested that OCs be allowed to apply for loans for maintenance and to arrange security for such loans to be charged against those irresponsible owners' property titles.

Technical assistance to building owners and OCs

15. Mr Albert CHAN opined that some buildings did not have OCs. Other buildings while having OCs, had experienced great difficulties in implementing maintenance projects. He expressed disappointment at the extent of assistance provided by Government to building owners so far. He stressed that the maintenance of aged buildings was a formidable task which was complicated by some developers who had tried to exert influence over the decision of OCs. There was a need for the Administration to set up dedicated teams comprising lawyers, building and management professionals to assist owners in maintenance works. The problem of building maintenance would remain unresolved unless adequate assistance was given to building owners. He would object to the stepping up of enforcement actions, before the provision of assistance to owners to help them discharge their maintenance responsibility.

16. HTF said that she was well aware of the difficulties faced by owners of aged buildings in which there were no OCs. She however also noted the initiatives of some building owners to fulfil their maintenance responsibility. Quoting a recent example, she told members that one of her relatives who lived in a building adjacent to a target building decided to unite other owners recently for repairing and upgrading

their building. They had taken efforts to repair their building because they did not wish their building to become the target of enforcement actions. This illustrated the positive effect of BD action on owners. The Administration would, with additional resources, provide the necessary assistance to owners in the maintenance of their buildings. She hoped that members would support future funding submissions for the promotion of building maintenance. As regards the provision of more professional service to building owners, she advised that the Building Management Resource Centres set up by the Home Affairs Department provided updated and comprehensive information on building management and answers to general enquiries. Seven professional bodies, including the Law Society of Hong Kong, the Hong Kong Society of Accountants, the Hong Kong Institute of Surveyors, the Hong Kong Association of Property Management Companies, the Hong Kong Institution of Engineers, the Hong Kong Institute of Housing and the Hong Kong Institute of Architects offered professional advice via these centres. More training on legal and building management matters would be provided to the front-line staff to improve their capability in responding to enquiries from building owners.

17. D of B added that under the pilot on CMBS, BD would work closely with District Offices and other concerned departments in assisting owners in discharging their maintenance responsibility. BD would designate an officer for each of the 150 buildings to coordinate all aspects of building works, including building maintenance, fire prevention installations, etc.

Quality of construction

18. Mr Andrew CHENG was concerned about the deteriorating quality of construction. He agreed that the maintainability of new buildings, as referred to in paragraph 18 of the information paper, should start well before construction. The land leases and Deeds of Mutual Covenant (DMC) should clearly state the respective responsibilities of developers, property owners and building management. He hoped that more positive action could be taken by the Administration in this respect. In this connection, he enquired whether the Housing Authority would be prepared to extend the defects liability period and whether the land leases and DMC could be more specific about the developers' responsibility for guaranteeing the quality of construction. In his view, there might also be a need to introduce legislation to enshrine developers' responsibility for maintenance of buildings.

Admin

19. HTF welcomed Mr CHENG's views. She agreed to convey the suggestion of extending the defects liability period by the Housing Authority to the Housing Bureau. HTF said that the subject could also be further discussed at joint meetings of this Panel and the Panel on Housing.

20. Mr Albert CHAN pointed out that some of the building defects did not arise out of a lack of maintenance but was a result of jerry building. The responsibility for such repairs should therefore rest with the developers. However, in view of the high

litigation costs, owners and OCs seldom resorted to legal action against the developers. Mr CHAN suggested that the Administration should consider taking up prosecution action against the irresponsible developers.

Unauthorized building works(UBWs)

21. Mr LAU Ping-cheung said that the Administration might need to look into the policy governing the charging of rates on the extra space made available by UBWs since this would give the owners the false impression that their UBWs were tolerated. He also raised the subject of control of advertisement signboards. HTF advised that the Administration would soon submit papers to the Panel concerning the issue of UBWs and advertisement signboards.

Responsibility for maintenance of flats sold under the Tenants Purchase Scheme (TPS)

22. As regards Mr LAU Ping-cheung's further enquiry on the responsibility for maintenance of flats sold under TPS, HTF and D of B affirmed that flats sold under TPS would be regarded as private properties and fell within the ambit of the Buildings Ordinance. At present, the Director of Housing had been delegated the responsibility for maintaining these flats. In the long run, owners would have to maintain their own TPS flats in line with other private properties in accordance with the provisions of the Buildings Ordinance. Should members so wish, the Administration would be prepared to discuss the subject at joint meetings of this Panel and Panel on Housing.

Maintenance reserve funds and licensing system for management companies

23. HTF noted Mr IP Kwok-him's concern about the need for setting aside a part of the maintenance fee for the setting up of a maintenance reserve fund and the Chairman's suggestion of setting up a licensing system for management companies. She appreciated their interest and pointed out that both ideas were part of the task force's package of proposals.

24. D of B said that the Administration had all along been proactively seeking ways to assist owners in maintaining their buildings. He reiterated that the Administration would adopt an open approach and provide the necessary assistance to owners before considering the need to introduce a mandatory building maintenance scheme. He thanked members for their views and agreed to take these into consideration in formulating an optimal solution to the maintenance problem.

II Green buildings : a proposal to enhance the quality of our living (LC Paper No. CB(1)181/00-01(02))

25. With the aid of a computer power point, D of B gave a presentation on the proposals for promoting green and environmentally friendly buildings. These proposals included the provision of balconies, wider common corridor and lift lobbies, communal sky gardens, set-back of buildings, prefabricated non-structural external walls, solar panels, water recycling facilities, green construction methods, automatic refuse collection systems, green material and energy efficient building services system.

(Post-meeting note: a copy of the presentation materials was circulated to members under LC Paper No. CB(1) 267/00-01)

26. Ir Dr Raymond HO appreciated the Administration's efforts in enhancing the quality of living through promoting green and environmentally friendly buildings. He agreed that these proposals would be able to achieve the intended purpose of maintaining sustainability and reducing maintenance cost and construction waste. He welcomed the Administration's proposal of using radon blockage materials as one of green construction method, as this would reduce the carcinogenic effect brought about by radon which was present in building materials. As to the use of pulverized fuel ash, he pointed out that there was a limit on the amount to be used in construction projects. He was however concerned about safety problems posed by the provision of balconies and suggested that where balconies were to be provided, they should be well designed and maintained to ensure safety.

27. Mr Abraham SHEK congratulated D of B for the innovative proposal in making Hong Kong an acclaimed area in the promotion of green buildings. He enquired whether the concept of green buildings would be applied to all land leases, both new and old. In response, the Principal Assistant Secretary for Planning and Lands (Buildings) (PAS/PL(B)) affirmed that the proposals for promoting green buildings would apply to all buildings, including the retrofitting of existing buildings. In so far as amendments to leases were concerned, BD had established a Building Innovation Unit to facilitate the building industry in constructing environmentally friendly buildings. On Mr SHEK's further enquiry on whether the green measures adopted in old leases would incur the payment of extra land premium, PAS/PL(B) advised that this would depend on individual circumstances.

28. Mr SHEK pointed out that the Administration should not use green measures as a means to increase revenue. He opined that green buildings, whether built under old lease (as in the case of redevelopment) or new leases should be dealt with in the same manner. PAS/PL(B) assured him that the Administration would deal with the issue on an equitable basis. D of B supplemented that the green measures would be applied to all buildings to which occupation permits had not been issued. The intention was to extend the coverage as wide as possible. Provisions for green measures would be included in new leases. As for old leases, the Administration would need to look into the different provisions, in particular those concerning balconies. Although the provision of balconies was a green feature which should be encouraged, yet its exclusive access by occupiers and its enhancement of building value meant that a premium should be charged. As for the widening of corridors and lift lobbies, B of D said that since these were environmentally friendly features that would improve the quality of living, the Administration was of the view that these should not require the modification of leases, whether new or old, and a premium would not be charged on these common areas. Mr SHEK remained of the view that the same treatment should apply to buildings irrespective of whether they were built

under new leases or redeveloped under old leases and he did not therefore consider the Administration's argument substantiated.

29. While congratulating the Administration for their innovative ideas, Mr Henry WU King-cheong expressed concern about the cost implications of providing green features. He said that high technology designs might incur additional maintenance, the cost of which would be borne by owners rather than by developers. In this connection, he enquired whether an estimate on the maintenance costs for these features had been made and if the Government would consider launching a pilot to assess the efficacy of such features and their cost effectiveness. He said that he was aware of such pilot schemes being implemented in provinces of the Mainland, some of which included features such as primary treatment of sewage.

30. D of B said that the Inter-departmental Working Group would examine an incentive scheme to promote the installations of such green features. The primary sewage treatment system and the automatic refuse collection system were options which could be considered. The management, maintenance and repair of the buildings should be coordinated and operated using a total life cycle approach. The responsibility of developers and owners in the maintenance of buildings should be more clearly defined in the DMC. Consideration should also be given to setting aside a part of the management fee for the establishment of a maintenance reserve fund. There had been positive response from the building industry in the adoption of green features and in fact some developers had already been actively considering the implementation of these measures in their developments. Since these measures would incur extra initial costs, the Administration intended to examine the possibility of providing compensatory Gross Floor Area (GFA) equivalent to the extra cost incurred. With these incentives, it was hoped that more green buildings would be developed in Hong Kong.

31. As to Mr WU's further enquiry on whether there was any overseas experience on the measures proposed, D of B advised that the Building Innovation Unit had been gathering experience from other countries on the implementation of green measures. It would seek to obtain advice from outside experts and consultants on the issue. A close dialogue would be maintained with the construction industry, including professional institutes, contractors, developers, as well as academia on the proposals.

32. While expressing support for the proposals, Mr IP Kwok-him was also concerned about the additional cost for maintaining green features and the higher sale prices of green buildings. In response, D of B stated that the additional maintenance cost would be offset by savings in energy and water consumption. It was hoped that with the promotion of green buildings, green features would become standard provisions of new buildings.

33. Mr Albert CHAN welcomed the proposals. He hoped that the proposed GFA exemption for green features would have the approval from the Financial

Secretary. He stressed that in working out the GFA exemptions for green features, care should be taken to ensure that owners' interests would be adequately protected. The ownership rights of these green features, such as balconies, widened corridors and lift lobbies should be clearly spelt out in the DMC and the sales brochures of these buildings. This would avoid future disputes on the ownership rights of these features. He pointed out that the proposed features, if applied to new buildings, would enhance the value of these buildings. However, such measures would have a negative impact on existing buildings as their value would be lesser by comparison. In this connection, he suggested that, subject to the structural feasibility of the building as confirmed by building professionals, owners of existing buildings should be encouraged to install green features and enjoy the same exemptions that would apply to new buildings.

34. D of B noted Mr CHAN's views. He said that the Administration's intention was to apply GFA exemptions for green features to developments under new leases and redevelopment under old leases. He assured members that the interests of owners would be protected and developers would be required to list out the green features and to exclude the areas exempted from GFA calculations from being regarded as saleable areas. He also informed members that the proposals for GFA exemption for green features had the full support of the Financial Secretary.

35. Mr James TO shared Mr Albert CHAN's view that as green features would add value to buildings, the incentive of providing GFA exemptions for green features should not only be limited to new developments. Subject to loading and structural requirements, existing buildings should also be encouraged to install these green features without the need to pay. The addition of green features such as balconies to existing buildings would not only enhance the value of buildings, but would also provide the incentive for owners to maintain and upgrade their buildings. He opined that the Administration should try to promote the use of green features and should not use this as a means to raise revenue.

36. While appreciating Mr TO's suggestion, D of B said that the addition of balconies to existing buildings might not always be viable technically and would incur high construction costs. The Administration would need to work out the premium associated with the additional space made available as a result of the provision of balconies, which were for the exclusive use by owners.

37. Responding to the Chairman's enquiry on whether the Administration would take the lead in adopting green features in Government buildings, D of B said that the concept would be conveyed to the Architectural Services Department and the Housing Department for consideration.

38. Mr Albert CHAN said that there were grey areas in some of the provisions of DMC which needed to be examined. He pointed out that the recreational areas of some developments, though maintained and shared for use by owners, remained under the ownership of developers under the DMC. As a result, developers could take

advantage of these provisions and further develop these recreational areas to their own benefit. He opined that actions should be taken to plug these loopholes. Mr LAU Ping-cheung said that according to the provision of the Sales Descriptions of Uncompleted Residential Properties White Bill which was released for public consultation earlier, the GFA could be equal to the saleable area of the flat together with a proportionate share of all common areas. However, there were no provisions specifying whether and how much of the areas exempted from GFA calculations should be included as saleable areas. He therefore urged the Administration to work out clear guidelines on the provisions relating to areas exempted from GFA calculations. The concerns raised by members were noted by the Administration.

III Interest rates for provisional payment, redemption money and compensation payable under various ordinances (LC Paper No. CB(1)181/00-01(03))

39. The Principal Assistant Secretary for Planning and Lands (Lands) (PAS/PL(L)) briefly explained the background to the proposed amendments relating to the interest rates for compensation payments in the various ordinances. Members noted that these amendments were necessary as a result of the deregulation of interest rate rules on short term deposits by the Hong Kong Association of Banks (HKAB) on 3 July 2000. As it would be impractical to ascertain the lowest interest rates from all the 150 banks in Hong Kong for the purpose of calculating interest payment, the Administration proposed to make reference to the applicable rates for 24-hour deposit offered by the note-issuing banks.

40. In response to Mr Albert CHAN's concern about the financial impact of the proposed amendments on the affected parties, PAS/PL(L) explained that since the proposed amendments were similar to the existing arrangement under which the lowest interest rate on time deposit was payable to compensation payments, the affected parties would not be worse off as a result of the amendments. Mr CHAN suggested that when the Bill was formally introduced into the Legislative Council, the Administration should give assurance to this. The Administration agreed.

41. Mr IP Kwok-him enquired about the transitional measures that would be taken in the event that the affected parties failed to reach agreement with the Administration on the compensation arrangements and had resorted to legal proceedings prior to the enactment of the proposed amendments. PAS/PL(L) said that as an interim measure, the Administration was now making reference to the information on 24-hour deposit rates made available by some of the banks in Hong Kong. The Administration would adhere to the original formula as stipulated in the various ordinances as far as possible in determining the interest rates.

42. Referring to item 5 of the Annex to the information paper, the Chairman pointed out that under the Mass Transit Railway (Land Resumption and Related

Provisions) Ordinance, the interest payable should be in regard to the interest rate on deposits at 7 day's call. The proposed amendments however would change the reference to the 24-hour deposit rate. PAS/PL(L) clarified that section 26 of the Ordinance also provided that the rate be determined by resolution of the Legislative Council. That particular LegCo Resolution provided that the lowest rate offered by members of the HKAB be paid. The proposed amendment only reflected the existing practice.

43. Responding to the Chairman's query as to why the interest rate for compensation payments had been set at the lowest 24-hour deposit rate, PAS/PL(L) said that this practice had been adopted a long time ago. He advised that the existing arrangement of adopting the lowest rate was considered reasonable as the provision of a high interest rate would encourage the affected parties to drag on the negotiation with Government.

IV Any other business

44. There being no other business, the meeting ended at 4:30 pm.

Legislative Council Secretariat
31 January 2001