

立法會
Legislative Council

LC Paper No. CB(1) 2110/01-02
(These minutes have been seen
by the Administration)

Ref: CB1/PL/HG/1

LegCo Panel on Housing

**Minutes of meeting held on
Monday, 3 June 2002, at 2:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon Albert HO Chun-yan (Chairman)
Hon CHAN Kam-lam (Deputy Chairman)
Dr Hon David CHU Yu-lin, JP
Hon LEE Cheuk-yan
Hon Fred LI Wah-ming, JP
Hon NG Leung-sing, JP
Hon James TO Kun-sun
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon SZETO Wah
Hon Abraham SHEK Lai-him, JP
Dr Hon LO Wing-lok
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
- Members attending** : Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Henry WU King-cheong, BBS
Hon MA Fung-kwok
- Members absent** : Hon Albert CHAN Wai-yip
Hon WONG Sing-chi

**Public officers
attending**

: For item IV

Housing Bureau

Ms Ophelia TSANG
Principal Assistant Secretary (1)

Mr Paul LEE
Chief Executive Officer (Special Duties)

Estate Agents Authority

Mrs Grace CHOW
Chief Executive Officer

Mr Augustine WONG
Chairman, Practice Committee

Mrs Pamela CHAN
Member

Mr Tommy CHO
Assistant Legal Advisor

For item V

Housing Bureau

Miss Joey LAM
Principal Assistant Secretary (2)

Housing Department

Mr C P ROBERTS
Assistant Director/Commercial Properties

Mr C Q LEE
Chief Housing Manager/Management

**Attendance by
invitation**

: For item IV

Estate Agent Association

Ms YUEN Choi-kuen
Chairman

Mr Evan NG
Assistant Chairman

Hong Kong Chamber of Professional Property Consultants Ltd

Mr Mike KOO
President

Mr Lawrence WONG
Deputy President

Hong Kong Real Estate Agencies General Association

Mr LUN Chi-yim
Chairman

Mr MAN Kwong-hoi
Vice-Chairman

New Territories Estate Agency Association Ltd

Mr LIU Chi-ming
President

Mr YAU Hing-sun
Vice-Chairman

Properties Agencies Association Ltd

Mr KWOK Tak-leung
Vice-Chairman

Society of Hong Kong Real Estate Agents Ltd

Mr Alex TANG
President

Mrs Karen WONG
Vice-President

Clerk in attendance : Miss Becky YU
Chief Assistant Secretary (1)1

Staff in attendance : Ms Cindy CHENG
Senior Assistant Secretary (1)SC3

I Confirmation of minutes of previous meeting

(LC Paper No. CB(1)1854/01-02 -- Minutes of the meeting held on 6 May 2002)

The minutes of the meeting held on 6 May 2002 were confirmed.

II Information paper issued since last meeting

2. Members noted the following information papers which had been issued since last meeting -

LC Paper No. CB(1)1668/01-02(02) — Submission from Hong Kong People's Council on Housing Policy regarding domestic rent policy and financial arrangements of the Housing Authority

LC Paper No. CB(1) 1856/01-02 — Funding proposal on reprovisioning of Civil Aid Service and Fire Service Department facilities to Site 17, West Kowloon Reclamation

III Date of next meeting and items for discussion

(LC Paper No. CB(1)1857/01-02(01) — List of follow-up actions arising from discussion

LC Paper No. CB(1)1857/01-02(02) — List of outstanding items for discussion)

3. The Chairman drew members' attention to the funding proposal on re-provisioning of Civil Aid Service and Fire Service Department facilities to Site 17, West Kowloon Reclamation (LC Paper No. CB(1)1856/01-02). He then consulted members on the need for a joint meeting to discuss the subject, which straddled both the Housing Panel and the Security Panel. Members considered that a joint meeting might not be necessary as the subject was more related to the latter. Members of the Housing Panel should be invited to attend the meeting when the subject was discussed by the Security Panel.

4. Given the impending expiry of the moratorium on sales of Home Ownership Scheme (HOS) flats, members agreed that the Administration be invited to brief the Panel on its plan to resume HOS sales at the next meeting on 5 July 2002. They also agreed to discuss the outcome of the Review of the Institutional Framework for Public Housing if this could be released before the next meeting. The Clerk was requested

to liaise with the Administration on the progress of various reviews. In the event that these subjects were not ready for discussion, consideration would be given to including issues on overcrowding relief and relaxation of age restriction on access to housing for senior citizens in the agenda for the next meeting.

(Post-meeting note: A letter was issued to the Administration on 4 June 2002.)

IV Review of the finances and regulatory regime of the Estate Agents Authority

Meeting with Estate Agent Association (EAA)

(LC Paper No. CB(1)1857/01-02(03) — Submission from the Association)

5. Ms YUEN Choi-kuen opined that the current practice of having different estate agency agreements for sale, leasing and purchase was too cumbersome. To facilitate estate agents (EAs) in discharging their duties, effort should be made to combine these forms into one simple form as the one attached to the submission from EAA. Instead of requiring EAs to have in their possession the prescribed property-related information on each property before they introduced it to prospective purchasers, consideration should be given to allowing EAs to provide such information only if the purchasers were interested in the property. Disciplinary actions such as suspension or revocation of licences should be taken against EAs and their employers in the event of misbehaviour and unethical conduct of EAs. To protect EAs against default in payment of commission by landlords, legislation should be put in place to require the latter to deposit the relevant monies with the conveyancing solicitors.

Meeting with the Society of Hong Kong Real Estate Agents Limited (SHKREA)

(LC Paper No. CB(1) 1857/01-02(04) — Joint submission from Hong Kong Chamber of Professional Property Consultants Ltd, Hong Kong Real Estate Agencies General Association, New Territories Estate Agency Association Ltd, Properties Agencies Association Ltd and SHKREA)

LC Paper No. CB(1)1857/01-02(08) — Submission from SHKREA)

6. Mr Alex TANG drew members' attention to the joint submission from five estate agency associations circulated vide LC Paper No. CB(1)1857/01-02(04). On the finance of the Estate Agents Authority (EAA), Mr TANG opined that EAA might have under-estimated the future increase in licensee population in projecting its income, thereby resulting in operating deficit starting 2002/03. On the other hand, EAA should exercise stringent control over its expenditure to achieve a balanced account and avoid any unnecessary investment, including the proposed purchase of office premises. It should also review the existing mode of funding which was entirely dependent on the size of the licensee population. Effort should be made to

explore alternative mode of funding to provide for long-term financial stability of EAA and obviate the need to adjust licence when there was a drop in licensee population. He also considered it necessary to put EAA under the purview of the Director of Audit to enhance the transparency of the operation of EAA.

(Post-meeting notes : According to the Administration, section 12(6) of the Estate Agents Ordinance stipulates that EAA is within the purview of the Audit Ordinance (Cap. 122).)

7. To ascertain the representativeness of the views in the joint submission, Mrs Selina CHOW considered it useful for the five estate agency associations to provide details of their memberships, roles and functions for members' reference.

Meeting with the Hong Kong Real Estate Agencies General Association (HKREAGA) (LC Paper No. CB(1)1857/01-02(06) — Submission from HKREAGA)

8. Mr LUN Chi-yim pointed out that unlike professionals such as lawyers and doctors who could practice with a valid business registration and a “professional” licence, EAs were required to apply for an additional statement of particulars of business to carry out estate agency work. This had created unnecessary financial burden on EAs, particularly amid the economic downturn. To this end, EAA should streamline the prevailing licensing system and seriously consider the feasibility of imposing an ad valorem levy on property transactions as an alternative mode of funding to EAA. On the provision of property-related information, Mr LUN suggested that a central registration system should be set up for vendors so that EAs would not be required to obtain the prescribed information for a particular property every time before they introduced it to a prospective purchaser, thereby saving the cost and effort of EAs.

9. As regards the constitution of EAA, Mr MAN Kwong-hoi opined that the appointment of those who had wholly or partly left the estate agency trade to Category A Members of EAA had undermined the representativeness of the trade in EAA. To ensure that the views of the trade could be duly reflected to EAA, the Administration should only appoint those who really engaged in the trade as EAA members and increase the proportion of trade representatives of Category A Members from 30% to 50%.

Meeting with the Properties Agencies Association (PAA) (LC Paper No. CB(1) 1857/01-02(07) — Submission from PAA)

10. Mr KWOK Tak-leung highlighted the salient points the submission from PAA as follows:

- (a) more trade representatives should be appointed to EAA to enhance communication between the trade and EAA;

- (b) enforcement should be stepped up against individuals practicing estate agency work without a valid licence;
- (c) an independent monitoring mechanism should be established to oversee the financial management of EAA to ensure cost-effectiveness on the one hand and to avoid frequent fee adjustments on the other;
- (d) the role of EAA should be enhanced to assist the development of the estate agency trade; and
- (e) the Estate Agents Ordinance (Cap. 511) (EAO) should be amended to remove draconian provisions.

Meeting with the Hong Kong Chamber of Professional Property Consultants Limited (HKCPPC)

(LC Paper No. CB(1) 1857/01-02(05) — Submission from HKCPPC)

11. Mr Mike KOO said that to enhance the professionalism of the estate agency trade, communication between the trade and EAA should be stepped up. In this connection, consideration should be given to co-opting more trade members to the standing committees and working groups of EAA to ensure that the views of the trade could be duly reflected. Mr KOO also expressed concern about the surge in complaints against EAs. He considered it necessary for EAA to find out the cause for the surge and to take necessary disciplinary actions against unscrupulous licensees in the event of non-compliance with the statutory requirements under EAO.

Meeting with the New Territories Estate Agency Association Limited (NTEAA)

12. Mr LIU Chi-ming said that EAA had failed to recognize the difficulties faced by EAs under the prevailing poor property market. This was mainly attributed to the lack of communication between the trade and EAA. By way of illustration, EAA had not consulted the trade on the Practice Directions and the prescribed estate agency documents after the implementation of the Practice Regulation for almost three years. No measures had been taken by EAA to alleviate the hardship of EAs, particularly those of small and medium estate agency firms, amid the economic downturn. The closure of these firms might lead to monopolization by large firms, which was not conducive to fair and healthy competition. Mr LIU held the view that instead of regulating the estate agency trade by a statutory body, consideration should be given to allowing the trade to regulate itself which was more effective.

Meeting with the Administration

(LC Paper No. CB(1) 1857/01-02(09) — Information paper provided by the Administration)

13. On *the constitution of EAA*, Mr Fred LI and Mrs Selina CHOW considered it inappropriate for the Administration to appoint those who had wholly or partly left the

estate agency trade to EAA without prior consultation with the trade. To enhance the representativeness of EAA, they urged the Administration to consider appointing those who were nominated by the trade to EAA as in the case with other statutory boards. This would ensure that the trade's views were duly reflected to EAA for consideration. The Principal Assistant Secretary for Housing (1) ((PAS for H(1)) advised that the constitution of EAA was stipulated by EAO. Currently, EAA comprised 20 members, including the Chairman, Vice-Chairman, five from the trade, four from people related to the estate agents sector and nine from others in the community. The composition aimed to ensure impartiality. The Chief Executive Officer/EAA (CEO/EAA) confirmed that EAA maintained close liaison with the trade. She also agreed to the need for greater participation from the trade in promoting professionalism and legislative amendment to this effect was under consideration. Meanwhile, EAA had co-opted additional trade members to its standing committees, such as the Training Committee and the Practice Committee, and working groups as and when necessary. By way of illustration, two representatives of the trade associations had been appointed to the working group on the review of the Practice Regulation. Members however remained of the view that prior consultation was necessary before the Administration reached a decision on the appointment of trade representatives to EAA. PAS for H(1) assured members that their views would be taken into account in the appointment of new EAA members.

14. On *the role of EAA*, Mr MA Fung-kwok said that as a member of EAA, he noted that there were different expectations on the role of EAA. The trade, on the one hand, considered that EAA should assume the role of a development council to promote the well being of the estate agency trade. EAA, on the other, saw itself as a regulatory body to regulate the conduct and practice of EAs. CEO/EAA advised that section 5 of EAO had spelt out clearly the roles and functions of EAA. As regards the trade's request that EAA should assist in the development of the estate agency trade, CEO/EAA said that EAA had an open mind in this regard. However, legislative amendment would be required if any changes to the statutory roles of EAA was considered necessary.

15. Mrs Selina CHOW asked how EAA would address the trade's complaint against unlicensed persons, such as watchmen, undertaking estate agency work which would inevitably affect the livelihood of licensees. CEO/EAA advised that practising estate agency without a licence was an offence under EAO. EAA was not empowered to prosecute but every effort had been made to refer such cases to the Police which would decide on whether to lay charge against the parties concerned. Notwithstanding, EAA had issued letters to Owners' Corporations informing them that it would be an offence for any individuals to undertake estate agency work without a valid licence, and that a watchman might risk losing his security personnel permit if convicted of unlicensed estate agency work. As regards complaints against EAs, CEO/EAA said that during the year 2001, EAA had handled a total of 1 470 complaints and reported cases of non-compliance, involving 2,286 allegations. It had also conducted over 1 300 inspections of agency shops and first sale sites. She pointed out that the number of complaints had stabilised, and that while the number of complaints against EAs' professional knowledge was in fact decreasing consequent

upon the stepping up of educational programmes to enhance the professional standards of EAs, there was no corresponding decrease in the number of complaints relating to EAs' unethical conduct.

16. On *the review of the Practice Regulation*, CEO/EAA said that there was general support for the need to streamline and simplify the standard documents prescribed in the Practice Regulation without compromising their legal effect. However, there were divergent views on the inclusion of conduct and behaviour of EAs under the Practice Regulation. The Chairman, Practice Committee/EAA added that the proposal was aimed at enabling EAA to handle unethical conduct of EAs more equitably and effectively. In the light of the dissenting views, the EAA Board would further deliberate on the review before the results would be presented to the Government for further consideration.

17. On *the provision of property-related information*, Mr IP Kwok-him asked if EAA would review the types of information required and the time at which such information should be provided. CEO/EAA said that the provision on supply of property-related information was an integral part of the regulatory regime to improve the standard of services of the trade. This would ensure that the clients would have sufficient information on the properties before making an informed decision. This was also in line with consumer protection. On the timing for providing property-related information, CEO/EAA advised that subject to the agreement of prospective purchasers, EAs could provide the required information at a later stage.

18. On *the finance of EAA*, Mr Fred LI and Mr MA Fung-kwok agreed with the trade that EAA should seriously consider the feasibility of an ad valorem levy system on property transactions which was in line with the user-pays principle. CEO/EAA acknowledged that the current fee-based income did not provide for long-term financial planning as licensee numbers were difficult to predict. To this end, EAA had pursued a policy of economy and prudent financial management since its inception. From 2000/01 to 2002/03, savings in overall expenditure were estimated to be 7.3% which exceeded the target of 5% over three years in the Government's Enhanced Productivity Programme. The present staff establishment had been trimmed by 16% compared with 2000/01. On the alternative mode of funding, CEO/EAA advised that a feasibility study on ad valorem levies on property transactions had been conducted. The report had yet to be deliberated by EAA, after which it would be presented to the Government for consideration, and full consultation with the trade as well as the authorities would be made before a final decision was taken on this matter.

19. Mr CHAN Kam-lam asked how the proposed purchase of office premises by EAA could enable a net saving of about \$3 million per annum given that substantial down-payment would be required for the acquisition. In reply, CEO/EAA advised that it was considered an opportune time for EAA to acquire its own office premises upon the expiry of the tenancy of the EAA offices in October 2003 in order to take advantage of the low property prices and interest rates. It was expected that the acquisition would result in a decrease in expenditure as savings on rentals, by

\$1.7 million in 2003/04, and by \$3.4 million per annum in subsequent years. This was offset by a loss of interest income of about \$0.4 million per annum from 2003/04 to give a net saving of about \$3 million per annum. She nevertheless stressed that a decision on the acquisition had yet to be made, and that full consultation with the trade and the authorities would be conducted before reaching a final decision. On monitoring of the finance of EAA, PAS for H(1) said that EAA was required to submit a report in each financial year on its affairs, a copy of its statement of accounts and a copy of the auditor's report to the Secretary for Housing. These documents were also required to be laid on the table of the Legislative Council.

V Provision of ancillary facilities in newly-completed public housing estates

(LC Paper No. CB(1)915/01-02(01) — Referral on lacking of shopping and market facilities in Yau Tong redevelopment area

LC Paper No. CB(1)1668/01-02(01) — Copied letter from Hon LEE Cheuk-yan to the Director of Housing regarding insufficient supply of restaurants in Tin Shing Court

LC Paper No. CB(1)1857/01-02(10) — Referral from Duty Roster Members regarding the provision of rent concession during the initial in-take of new public housing estates

LC Paper No. CB(1)1857/01-02(11) — Information paper provided by the Administration)

20. Mr Fred LI said that the lack of ancillary facilities was a common problem in many newly completed public housing estates. By way of illustration, residents of Po Tat Estate (PTE) had earlier approached the Duty Roster Members expressing their grave concern about the inconvenience caused by the delay in the provision of ancillary facilities within the estate. They had no choice but to shop in nearby shopping centres which had incurred additional travelling time and expenses. As it was the responsibility of the Housing Authority (HA) to ensure timely provision of ancillary facilities to tie in with the intake of residents, consideration should be given to reducing the rent for these residents as compensation until the planned commercial facilities were made available.

21. While acknowledging members' concern about the delay in the provision of ancillary facilities to tie in with the intake of residents in newly-completed public housing estates, PAS for H(2) considered that rent reduction was not an appropriate measure to address the temporary though unfortunate mismatch since residents' individual circumstances differed. A better alternative was to put in place measures to help residents meet their shopping needs. To this end, HA had sought to encourage commercial tenants to start business early by enhancing the rent relief scheme with more generous rental discounts commensurate with the levels of

population intake since September 2001. Where practicable, HA might provide temporary premises for the sale of daily necessities to affected residents. HA would also assist in arranging temporary transport arrangements to facilitate residents to shop in nearby shopping centres. In response to Mr CHAN Kam-lam's question, PAS for H(2) assured members that HA would endeavour to ensure timely provision of commercial facilities to tie in with the intake of residents in future. As regards the case of PTE, the Assistant Director/Commercial Properties (AD/CP) confirmed that the PTE commercial centre would be in full operation by mid 2002. Given the long delay of the PTE commercial premises for over one and a half years, the Chairman asked whether the Administration could implement additional measures to address the shopping needs of PTE residents.

22. On *encouraging commercial tenants to start business early*, Mr IP Kwok-him asked if HA would consider extending the rent-free period as an additional incentive to attract commercial tenants to start business early despite slow intake. Dr YEUNG Sum opined that the same rent relief arrangement should similarly apply to domestic tenants with a view to alleviating their hardship. In response, the Assistant Director/Commercial Properties (AD/CP) said that as most of the commercial premises were let out by tender, any subsequent variation to the terms in the tenancy agreements had to be considered prudently. Given that the amount of rent payable by the commercial tenants were only part of the operating expenses, further rent concession would not become a substantial incentive for retailers to commence operation when the business volumes were low at the early stage of population intake.

23. On *the provision of transport linkage with nearby shopping centres and markets*, Mr IP Kwok-him considered that HA should take the initiative to provide free transport linkage once a delay in the provision of ancillary facilities was anticipated. AD/CP responded that the provision of additional free transport arrangements would be difficult to justify now that there were adequate franchised bus services operating from the estate. Mr Howard YOUNG cautioned that retailers of new estates might oppose to the provision of transport linkage as this would jeopardize their business.

VI Any other business

24. There being no other business, the meeting ended at 4:40 pm.