

立法會
Legislative Council

LC Paper No. CB(1) 784/02-03
(These minutes have been seen
by the Administration)

Ref : CB1/PL/HG/1

Panel on Housing

**Minutes of meeting held on
Monday, 6 January 2003, at 2:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon CHAN Kam-lam, JP (Chairman)
Hon Albert HO Chun-yan (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 CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon SZETO Wah
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Dr Hon LO Wing-lok
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
- Members absent** : Hon James TO Kun-sun
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon WONG Sing-chi

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Attendance by invitation : For Item IV

Housing Department

Mr Marco WU
Deputy Director (Business Development)

Mrs Doris MA
Assistant Director (Housing Subsidies)

For Item V

Law Reform Commission

Mr Stuart STOKER
Secretary

Ms Michelle AINSWORTH
Deputy Secretary

Housing Department

Ms Ophelia TSANG
Assistant Director (Private Housing)

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

Staff in attendance : Ms Cindy CHENG
Senior Assistant Secretary (1)4

I. Confirmation of minutes

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| (LC Paper No. CB(1) 577/02-03 | — Minutes of the joint meeting with the Panel on Planning, Lands and Works held on 15 November 2002 |
| LC Paper No. CB(1) 578/02-03 | — Minutes of the regular meeting held on 2 December 2002) |

The minutes of the joint meeting with the Panel on Planning, Lands and Works held on 15 November 2002 and of the regular meeting held on 2 December 2002 were confirmed.

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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) 422/02-03 — Fifth report on progress of implementation of the greater private sector involvement scheme provided by the Administration

LC Paper No. CB(1) 453/02-03(01) — Qualification for Registration as Registered Professional Housing Managers under the Housing Managers Registration Ordinance

LC Paper No. CB(1) 453/02-03(02) — Management and maintenance of common facilities for Tenants Purchase Scheme Estates

LC Paper No. CB(1) 453/02-03(03) — Ex-gratia payments for tenants of flatted factories upon redevelopment

LC Paper No. CB(1) 533/02-03(01) — An information paper on the latest progress in implementing the Housing Authority's Quality Housing Reform

LC Paper No. CB(1) 564/02-03(01) — Management and Maintenance of Public Facilities for Home Ownership Scheme Courts

LC Paper No. CB(1) 573/02-03(01) — Building Control Issues for Tenants Purchase Scheme Estates

LC Paper No. CB(1) 576/02-03(01) — Splitting of Public Rental Housing Tenancy and Housing Assistance to Divorced Couples

LC Paper No. CB(1) 579/02-03 — Circular on greater private sector involvement in estate management and maintenance services issued by the Housing Authority

LC Paper No. CB(1) 587/02-03 — Rehousing of clearers of squatters and illegal rooftop structures

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LC Paper No. CB(1) 606/02-03 — Submission from the Aggrieved Owners of Rooftop Structures in Tsuen Wan District

3. The Chairman recalled that at the last meeting on 2 December 2002, Mr LEE Cheuk-yan raised the question of whether a Subcommittee would need to be set up to study the rehousing policy for occupants affected by clearance of illegal rooftop structures (IRS). He then drew members' attention to LC Paper No. CB(1) 587/02-03 which set out the latest policy on rehousing of squatters and illegal rooftop structures. He also informed members that the Panel on Planning, Lands and Works had discussed the need for a Subcommittee and concluded that this might not be necessary for the time being. It nevertheless proposed to hold a joint meeting with the Panel on Housing to discuss the relevant issues. The Chairman suggested and members agreed to hold a joint meeting with the Panel on Planning, Lands and Works. Meanwhile, the Administration should be requested to respond to the concerns raised at the case conference held on 20 November 2002.

(Post-meeting note: The joint meeting was scheduled for Tuesday, 26 February 2003, at 9:00 am.)

III. Items for discussion at the next meeting

(LC Paper No. CB(1) 591/02-03(01) — List of follow-up actions

LC Paper No. CB(1) 591/02-03(02) — List of outstanding items for discussion)

4. Members agreed to discuss security of tenure at the next regular meeting on Friday, 14 February 2003, at 8:30 am. They also agreed to hold a special meeting on Wednesday, 12 February 2003, at 10:45 am to receive a briefing by the Secretary for Housing, Planning and Lands on the Chief Executive's Policy Address 2003.

(Post-meeting note: The special meeting on 12 February 2003 was advanced to Tuesday, 14 January 2003, at 4:30 pm consequent upon the decision of the House Committee on 10 January 2003 that briefings by Bureau Secretaries be conducted before the Council meeting on 15 January 2003.)

5. Mr Albert HO requested to include the subject of bedspace apartment in the list of outstanding items for discussion.

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IV. Home Ownership Scheme

(LC Paper No. CB(1) 591/02-03(03) — Paper provided by the Administration)

6. At the invitation of the Chairman, the Deputy Director (Business Development) (DD/BD) highlighted the salient points in the information paper. He said that as home ownership should essentially be a matter of personal choice and affordability, the Government's future role should focus on the provision of adequate supply of land to meet market demand and provision of affordable rental housing to low-income families. Therefore, the Government should withdraw from its previous role as direct housing provider and refrain from competing with the private residential market. In this connection, the Government had decided to cease the production and sale of Home Ownership Scheme (HOS) flats indefinitely from 2003 onwards, except for the unsold and returned flats which would be sold to Green Form applicants. Low-income families intending to buy their own flats would be offered loans through the Home Assistance Loan Scheme (HALS).

Re-positioning of housing policy

7. Mr Albert CHAN opined that it was imprudent for the Administration to cease the sale of both land and HOS flats given the dire consequences to the economy of Hong Kong, particularly the impact on the already deteriorating construction industry and poor employment market. He was skeptical that the cessation was aimed at helping large developers to dispose of their excessive flat stock. Expressing similar concern, Miss CHAN Yuen-han remarked that HOS had not only assisted many low-income families to achieve home ownership but also enabled the reallocation of public rental housing (PRH) flats after the sitting tenants had become home owners. She pointed out that unlike HOS flats which were sold at discounted prices, private flats were beyond the affordability of low-income families even with the provision of subsidized housing loans. Mr LEE Cheuk-yan echoed that families with household income between \$17,000 to \$18,000, which marginally exceeding the income and asset limits for PRH, would find it difficult to cope with mortgage repayments. They would have to cut down on other non-housing expenditures, which were not conducive to the well-being of the economy as a whole on the one hand and would inevitably affect their living standards on the other. He asked if the Administration had taken into account the mortgage-to-income ratio of low-income families in assessing their affordability. He also opined that apart from subsidized housing loans, other measures such as relaxation of the prevailing income and asset limits for PRH should be put in place to help low-income families upon the cessation of production and sale of HOS.

8. In reply, DD/BD stressed that the decision to cease the production and sale of HOS was made to address the imbalance between demand and supply in the residential property market and not for the interest of a specific group. He also reiterated that home ownership should be a matter of personal choice and affordability. The focus of Government's subsidized housing policy should be on the provision of assistance to

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low-income families who could not afford private rental accommodation. As regards those families with household income marginally exceeding the income and asset limits for PRH, DD/BD advised that while they might not be able to afford to buy their own homes, but they should be able to rent a suitable flat in the private market. It was therefore not appropriate to relax the income and asset limits for PRH in order to ensure rational allocation of the scarce public housing resources.

9. Mr Albert HO expressed grave concern about the wavering housing policy which had gone to extremes from annual provision of 85 000 flats in 1997 to recent cessation of HOS production and sale. Given that HOS had enabled the Administration to make timely adjustments to market fluctuations, particularly in the event of a booming property market where purchase of flat was beyond the affordability of low-income families, Mr HO held the view that the Administration should adopt a more flexible approach in dealing with HOS taking into account the changing circumstances. Expressing similar concern, Mr IP Kwok-him recognized the contribution of HOS and opined that it should be reinstated in the long run. He further enquired how the Administration could deal with the issue of well-off tenants upon the indefinite cessation of production and sale of HOS. Miss CHAN Yuen-han echoed that “bricks and mortar” was indeed a more preferred form of housing assistance.

10. In response, DD/BD reiterated that loan finance was a more cost-effective way of mobilizing the scarce public housing resources in meeting demand than traditional “bricks and mortar”. It also provided a wider choice to customers, offered a more flexible, market-friendly response to changes in public sector housing demand and was in line with the Government’s non-interventionist approach in respect of the property market. Therefore, the Government had no intention to reinstate HOS in the long run. As regards well-off tenants, DD/BD advised that they were no different from other eligible green form applicants who could apply for HALS to purchase flats in the secondary HOS market.

Disposal of overhang HOS flats

11. Referring to paragraph 7 of the information paper, Mr Fred LI queried whether there were 290 000 HOS flats available for sale. DD/BD clarified that the 290 000 flats referred to represented the entire flat stock which had been sold under various subsidized ownership schemes and which could be put up for sale in the secondary market. These flats would serve as a possible alternative source of subsidized sale flats to public housing tenants.

12. Mr LI then enquired about the number of overhang flats as a result of the cessation on the production and sale of HOS. He asked if these flats would be converted to PRH for allocation to applicants on the Waiting List (WL). DD/BD advised that there were about 24 000 overhang HOS flats, comprising both unsold and returned flats. A working group had been set up under the Housing Department to explore how these flats could be disposed of without direct competition with the

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private property market. One of the possible ways was to transfer these flats to PRH and to allocate them to overcrowded families. Consideration was also being given to disposing some of these flats to the Housing Society for rehousing purpose. A decision would be made in a few months' time. Mr LI expressed concern that the Administration might have difficulty in transferring overhang HOS flats, particularly those remained unsold within a sold court such as Lei On Court and Yu Chui Court, to PRH as this might not be permitted under the land grant. Besides, owners of the already sold flats had indicated their strong opposition to such a transfer. Expressing similar concern, Mr Albert CHAN remarked that the Administration should not sell completed unsold HOS projects such as Tin Chung Court and Tin Fu Court to private developers lest the latter might use these flats for profiteering. He also considered it necessary for the Administration to work out the plan to dispose of the overhang HOS flats as soon as possible since further delay would incur greater loss of public money.

13. In reply, DD/BD confirmed that the Government had no intention to sell entirely unsold HOS projects to private developers for resale to individual purchasers. As regards unsold flats from previous sales and returned flats, these would continue to be sold to Green Form applicants. The working group was still exploring possible means to dispose of the overhang HOS flats and a decision would be finalized in due course. The Chairman remarked that the Administration should take into account members' views and the interest of the community as a whole in formulating the disposal plan.

V. Law Reform Commission of Hong Kong Report on Local Completed Residential Properties: Sales Descriptions and Pre-contractual Matters

(LC Paper No. CB(1) 2597/01-02 — Report on Local Completed Residential Properties: Sale Descriptions and Pre-contractual Matters

LC Paper No. CB(1) 591/02-03(04) — Paper provided by the Law Reform Commission)

14. At the invitation of the Chairman, Secretary/Law Reform Commission (S/LRC) briefed members on the Report on Local Completed Residential Properties (the Report) published in September 2002. He began by explaining that the Commission was an independent body whose recommendations were the result of detailed study. He said that the present report was the third part of LRC's project on the sales descriptions of residential property. The other two reports on local uncompleted residential property and on overseas uncompleted residential property had been published in April 1995 and September 1997 respectively.

15. While commending LRC's efforts in studying the law governing the protection of prospective purchasers of uncompleted property in relation to inadequate or misleading sales information or particulars, Mr Albert CHAN expressed disappointment at the failure on the part of the Administration to take forward LRC's

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recommendations due to pressure from private developers. In response, the Assistant Director (Private Housing) (AD/PH) stressed that the Administration would not yield to any pressure. She said that following the release of the two previous LRC's reports, the Administration had received many divergent views on LRC's recommendations, particularly on the need for legislation to take forward some of the recommendations. Given that the three reports were inter-related, the Administration held the view that a holistic approach be adopted in considering these reports which would take time. Mr Albert HO asked when a decision on these reports would be made. AD/PH replied that the Administration would have to consult relevant parties on the Report before reaching a final decision, and would revert to the Panel in due course.

General approach to the second-hand market

16. On the *Vendor's Information Form* (VIF), Mr Albert CHAN opined that it should include information on unauthorized building works and other encumbrances. Consideration should also be given to requiring disclosure of information by management companies. While agreeing that VIF would help increase transparency of property transactions, Mr NG Leung-sing was concerned that vendors, particularly those of second-hand properties, might have difficulties in ensuring the accuracy of property information. He enquired about vendor's liability in the event of provision of inaccurate property information. Mr Howard YOUNG and Mr Albert HO echoed that vendors of very old flats might not be able to provide accurate details of their properties, particularly on saleable area, as there was no requirement for developers to disclose such information then. The Chairman also enquired how the interest of vendors could be safeguarded under such circumstances. S/LRC said that the responsibility for ensuring the accuracy of the contents of VIF laid with the vendor. He pointed out that LRC had recommended that VIF should include the name of the management company. To facilitate retrieval of property particulars, LRC recommended that a centralized property information system be set up. S/LRC agreed that consideration could be given to providing an exemption so that vendors who had exercised due diligence in ensuring the accuracy of property information would not be unduly penalized. Mr NG opined that the Administration should conduct detailed studies on the feasibility of VIF and the liability in the event of non-compliance.

17. On the *cooling-off period*, Mr Albert HO considered that the proposed duration of three working days for both the vendor and the purchaser in the sale of second-hand completed flats was too short. There might be circumstances where the preliminary agreement was signed by a co-owner who would need time to consult the other party(ies) concerned about the sale. He enquired about the overseas experience in this respect. In reply, S/LRC confirmed that reference had been made to other jurisdictions such as Australia in working out the proposed cooling-off period. The duration of three days for the cooling-off period was consistent with that under the Consent Scheme and aimed to strike a balance of interests between vendors and purchasers. Three working days should be sufficient for a purchaser to satisfy himself that he wished to go ahead with the transaction.

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18. Noting that the party electing to rescind the preliminary agreement during the cooling-off period would be liable to forfeit to the other party an amount equivalent to five percent of the purchase price, Mr HO held the view that the proposed level of forfeiture was too high. Expressing similar concern, the Chairman asked if the level could be lowered. Mr NG Leung-sing also enquired about overseas experience in this respect. In reply, S/LRC noted that the proposed level of forfeiture of five percent might be high when compared to some overseas jurisdictions, but this was in line with that under the Consent Scheme where a purchaser, who did not execute the formal agreement of sale and purchase after signing a preliminary agreement, would be liable to forfeiture of five percent of the purchase price or the amount of the preliminary deposit.

General approach to the first-hand market

19. Mr Albert CHAN held the view that developers should be required to specify the defect liability periods for individual items in the sales brochures. Consideration should also be given to requiring developers to provide a VIF for “left-over” flats which remained unsold for some time to indicate any changes in the defect liability periods for reference of buyers. S/LRC confirmed that the LRC recommended that sales brochures of local completed residential properties should state the duration of the defect liability period and when it should start to run.

20. Mr Albert HO opined that preliminary agreement should contain standard provisions in relation to Deed of Mutual Covenant (DMC). S/LRC agreed that DMC was an important document. As such, LRC recommended that salient provisions in DMC should be included in the sales brochures. These provisions would include financial and other obligations relating to the everyday usage of the property.

21. The Chairman considered it necessary for the Administration to standardize the definitions for saleable and usable areas for reference of both the construction industry and the public to avoid confusion. Meanwhile, Mr David CHU suggested that developers should be required to state the internal area of flats in the sales brochures.

Enforcement of the recommendations

22. Mr NG Leung-sing remarked that enforcement of the recommendations by legislation might not necessary in view of the current poor market situation. Mr Albert CHAN however considered that legislation was instrumental to give legal effect to the recommendations, albeit that the law should not impose a draconian requirement on vendors. S/LRC advised that for the second-hand market, LRC held the view that enforcement by voluntary compliance was appropriate because both vendors and purchasers were generally on an equal footing and there was no strong justification to require mandatory observation to protect the weaker party. For the first-hand market, however, LRC had unanimously concluded that enforcement by legislation was necessary since voluntary compliance by developers would provide no

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assurance that consumers' interests would be protected. S/LRC added that the LRC's recommendation that legislation was necessary confirmed and reiterated similar recommendations made in the LRC's previous two reports on sales descriptions of residential property.

VI. Any other business

23. There being no other business, the meeting ended at 4:10 pm.

Council Business Division 1
Legislative Council Secretariat
10 February 2003