

立法會
Legislative Council

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Panel on Housing

Minutes of meeting
held on Monday, 4 July 2005, at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon LEE Wing-tat (Deputy Chairman)
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Dr Hon YEUNG Sum
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Frederick FUNG Kin-kee, JP
Hon WONG Kwok-hing, MH
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon Patrick LAU Sau-shing, SBS, JP
Hon Albert Jinghan CHENG

Members absent : Hon Fred LI Wah-ming, JP
Hon Albert CHAN Wai-yip

Public officers attending : **Agenda item II**

Mr Michael M Y SUEN, GBS, JP
Secretary for Housing, Planning and Lands

Mr TAM Wing-pong, JP
Deputy Director (Strategy)
Housing Department

Mr Gilbert KO
Assistant Director (Private Housing)
Housing Department

Mrs Pamela CHAN
Chief Executive
Consumer Council

Ms Sandy CHAN
Chief Executive Officer
Estate Agents Authority

Mr Eric PUN
Director of Operations and Legal Affairs
Estate Agents Authority

Agenda item III

Mr TAM Wing-pong, JP
Deputy Director (Strategy)
Housing Department

Mr Carlson CHAN
Assistant Director (Strategic Planning)
Housing Department

Mr Hammus CHUI
Strategic Manager (Policy)
Housing Department

Attendance by invitation : Agenda item II

Real Estate Developers Association of Hong Kong

Mr Stewart LEUNG
Vice Chairman, Executive Committee

Mr Eric CHOW
Representative

Mr Mark HAHN
Representative

Mr Augustine WONG
Representative

Mr Ricky WONG
Representative

Mr Emmanuel YIP
Representative

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

Staff in attendance : Ms Sarah YUEN
Senior Council Secretary (1)6

Miss Mandy POON
Legislative Assistant(1)4

- I Information papers issued since last meeting and matters arising**
(LC Paper No. CB(1) 1944/04-05(01) -- List of outstanding items for discussion
LC Paper No. CB(1) 1944/04-05(02) -- List of follow-up actions)

Members noted that no information paper had been issued since last meeting.

2. As this was the last meeting of the Panel in the current legislative session, the Chairman thanked members for their active participation and contribution during the past year which had indeed helped improve the formulation and implementation of Government policy in respect of housing.

II Transparency of private sale of local uncompleted residential units

Meeting with the Real Estate Developers Association of Hong Kong

(LC Paper No. CB(1) 1965/04-05(01) -- Supplementary guidelines on private sale provided by The Real Estate Developers Association of Hong Kong)

3. At the Chairman's invitation, Mr Stewart LEUNG, Vice Chairman, Executive Committee of the Real Estate Developers Association of Hong Kong (REDA), said that in response to public concerns over sales brochures and advertisements for local uncompleted residential properties, REDA had established a self-regulation regime in June 2001, under which REDA members were required to comply with the guidelines on the types of information to be included in sales brochures. Since then, REDA examined every sale brochure issued by its members and was pleased to report that there was no case of non-compliance. In light of the recent concerns over the

transparency of private sales of local uncompleted residential units and the accuracy of sales figures released to the public, REDA had issued a set of supplementary guidelines on private sales which took effect on 24 June 2005. Mr LEUNG added that while REDA was not a regulatory body and there was no penalty for non-compliance with the self-regulation regime, every effort had been made to encourage its members to abide by the guidelines. Disciplinary actions might also be taken against non-compliance. He said that REDA would maintain close liaison with the Administration, Consumer Council (CC) and Estate Agents Authority (EAA) to ensure that the self-regulation mechanism would meet its intended objectives. It would also continue to cooperate with CC to deal with consumers' complaints.

Meeting with the Administration

(LC Paper No. CB(1) 1944/04-05(03) -- Information paper provided by the Administration)

4. The Secretary for Housing, Planning and Lands (SHPL) said that in light of the recent public concern over private sales of local uncompleted residential properties, the Administration had urged REDA to review its guidelines to adequately protect the interests of prospective purchasers participating in private sales. REDA had subsequently promulgated new guidelines. The new guidelines had only come into operation for about 10 days. During this period, no complaints against non-compliance had been received. The Administration would need to monitor the operation of the new guidelines over a period of time taking into account public views. The media and members of the public would no doubt be keeping a close watch on developers' compliance too. He also took the opportunity to point out that acquisition of property was an important and complicated decision let alone the higher risk involved in purchasing uncompleted residential properties. As such, prospective buyers should be aware of their rights and obligations and take all reasonable care to protect their interest. Where necessary, they should seek professional advice to reduce the risk. Meanwhile, the Administration had invited CC to step up publicity to promote public awareness on the protection of consumers' rights in property acquisition and EAA to enhance the standards and professionalism of estate agents. The Administration believed that the three-pronged approach would help protect the interests of prospective purchasers, and at the same time would not fetter market operations.

Meeting with the Consumer Council

5. The Chief Executive/CC (CE/CC) said that consumer awareness and market regulation were of equal importance. CC would endeavour to step up efforts in educating consumers on their rights and obligations as well as the salient points to note in property purchases. As far as the latter was concerned, she opined that REDA should aim to establish a more vigorous regulatory regime in the long run. On the number of complaints against sales of properties, CE/CC said that from January to May 2005, CC received a total of 164 complaints. Of these, 13 were related to private sales but none had been received since the promulgation of REDA's supplementary guidelines.

Meeting with the Estate Agents Authority

6. The Chief Executive Officer/EAA (CEO/EAA) said that as many prospective purchasers participated in first sales with the assistance of estate agents, EAA had issued practice circular to remind the estate agents to wear estate agent cards and the estate agency companies to keep record of staff deployment at first sale. EAA would issue further circular shortly to estate agents reminding them to provide accurate information such as price list to prospective purchasers. Besides, EAA had deployed additional manpower to step up enforcement to ensure proper order at sales offices. The total number of enforcement inspections in the first half of 2005 was doubled to about 737 as compared with the same period in the previous year. Leaflets on points to note in property transaction were made available for distribution to flat purchasers in the sales offices. EAA would also conduct a continuing professional development scheme and enhance the standard of the qualifying examinations with a view to improving the overall quality of the practitioners.

7. Noting that sales offices were often crowded with estate agents who tried to get hold of as many customers as possible, Mr Patrick LAU expressed concern about the order at these offices. CEO/EAA said that EAA had issued circulars to its members reminding them the need to ensure sales activities of estate agents at sales offices were conducted in an orderly and safe manner. Through the chair, Mr Stewart LEUNG/REDA said that developers would also deploy security guards to maintain order at their sales offices.

8. Mr WONG Kwok-hing asked if estate agents were subject to penalty in the event of contravention. CEO/EAA confirmed that as a statutory regulatory authority, EAA could exercise disciplinary powers such as admonishing the licensee, imposing fines, attaching conditions to licence and suspension or revocation of licence. In 2005, nine licenses had been suspended so far. Where necessary, EAA would refer cases to other enforcement agencies, such as the Police or the Independent Commission Against Corruption, for further action.

General Discussion

Self-regulation regime

9. Mr WONG Kwok-hing questioned the efficacy of REDA's self-regulation regime which had no sanction or control over non-compliance. He remained of the view that legislation should be introduced to regulate sales brochures for local residential properties. In response, SHPL stressed the need to strike a balance between protecting consumer interest and providing an environment conducive to business development. As the self-regulation regime was in line with the existing housing policy of keeping market intervention to a minimum and had greater flexibility to cater for changes in customers' expectations, the Administration held the view that statutory regulation was the last resort to consider only when the current regime was no longer meeting its intended objectives. Meanwhile, the Administration would continue to work closely with CC, EAA and REDA to ensure

that the guidelines were adequate and effective in meeting the needs of consumers and the property sector.

10. Through the chair, Mr Stewart LEUNG/REDA said that while REDA was not a regulatory body and thus not able to penalize its members for non-compliance with the self-regulation regime, efforts had been made to encourage them to abide by the regime. In fact, developers attached great importance to company reputation and would stand to gain from complying with the self-regulation regime given the highly competitive property market in Hong Kong. In response to Mr Tommy CHEUNG's question, Mr Stewart LEUNG/REDA confirmed that REDA was willing to co-operate with the Government and CC in resolving complaints relating to the provision of information in sales brochures for local uncompleted residential properties. Mr Abraham SHEK noted with appreciation REDA's willingness to improve its self-regulation regime in response to changes in the market. The promulgation of the supplementary guidelines was one of the examples.

Private sales

11. Mr LEUNG Kwok-hung however did not trust that developers could regulate themselves. He pointed out that unlike the stock market where the Securities and Futures Commission would take measures to counter market manipulation, no action had been taken to prevent developers to use private sales to boost up property prices for profiteering. Expressing similar view, Dr YEUNG Sum said that the nature of private sales had changed from a benefit for staff of property developers to a tool for testing the property market. He was concerned that private sales might have been used to manipulate the market.

12. Through the chair, Mr Stewart LEUNG/REDA clarified that private sales were not just for staff of developers but also allowed flexibility for block sale of flats to major investors for purposes such as investment and staff quarters without the need to await public sales. He also pointed out that developers were not able to manipulate the property market as their survival in fact hinged on the Government's land policy. In fact, not all developers could necessarily make profits. He hoped that members would not have a prejudice against developers.

13. Mr Albert CHENG opined that if private sales were intended to test the market, it should then be renamed as say "pre-sale" to better reflect its purpose. This would help clear the misunderstanding that the flats concerned were sold at preferential prices. He considered that most important of all, sales of these flats would be subject to stricter regulation to ensure fairness. While agreeing to discuss with the trade on Mr CHENG's suggestion, the Deputy Director of Housing (Strategy) (DD of H(S)) stressed that one of the purposes for private sales was to test the market having regard to the fluctuation of property market. SHPL added that as one of the measures announced in the Housing Policy Statement in November 2002 to help stabilize the property market, the original cap on the percentage of flats on offer under private sales was lifted. He also stressed that the important thing was to ensure transparency and accuracy of information provided by developers in relation to private

sales to help prospective purchasers to make well-informed decisions. Mr Abraham SHEK agreed that the lifting of the cap had indeed helped the recovery of the property market.

14. Referring to the supplementary guidelines on private sales, Dr YEUNG Sum noted that developers were only required to provide the price list of the first batch of the units on offer 24 hours before the private sale. There was no specific timeframe within which information on subsequent changes in prices or additional units offered should be provided. Developers were also free to decide on whether or not to make public the results of their sales. Dr YEUNG questioned the efficacy of these guidelines in protecting consumer interests. He considered the promulgation of supplementary guidelines by REDA was only a cosmetic gesture, and that REDA was still putting its members' interests before those of flat purchasers. Given that REDA had no statutory power to ensure compliance with its guidelines, Mr LEE Wing-tat proposed that, when approving consents for private sales of uncompleted flats under the Consent Scheme, conditions should be attached requiring property developers to provide prospective buyers with the price list of all the flats on offer under the private sales and to ensure the accuracy of information released regarding the results of the sales. Their views were shared by Mr LEUNG Kwok-hung.

15. Through the chair, Mr Stewart LEUNG/REDA explained that developers might not be able to sell their flats as soon as consent for pre-sale had been secured because they might have difficulty to determine the sale prices. As such, it had all along been developers' practice to put up some units for private sales to test the market. To enhance the transparency of the private sale mechanism, REDA had issued supplementary guidelines requiring its members to make available the price list and the list of units on offer at least 24 hours before the private sales. While the price list of the subsequent batches of units on offer might not be available before these were put up for sale, this would be posted at the sales office as soon as possible.

16. Mr CHEUNG Hok-ming asked if consideration would be given to reinstating the cap on the number of flats for private sales. SHPL said that this would hinge on changes in market development and whether such changes would warrant imposition of restrictions. He assured members that the Administration would continue to work closely with CC, EAA and REDA to keep the present regime under review and to identify scope for further improvements in the light of operational experience.

17. In response to Mr Patrick LAU's enquiry on regulation of payment options under private sales, SHPL advised that payment arrangements were subject to the terms mutually agreed between the developer and the purchaser. Through the chair, Mr Stewart LEUNG/REDA said that Hong Kong was a free society and developers were allowed to determine their own payment terms to suit the market and the needs of prospective purchasers. As regards Mr LAU's concern that overly preferential payment terms might encourage speculative activities, Mr LEUNG said that purchasers should be well aware of their affordability before deciding to buy a property. The important thing was to ensure accuracy of information provided by developers to help purchasers to make well-informed decisions.

18. In concluding, the Chairman remarked that property acquisition was a very important decision for the general public not only for accommodation but also as a means of investment. As such, it was onerous on the part of the Administration and the relevant parties, including REDA, to ensure the healthy development of the property market without prejudice to consumers' basic rights.

III One-person applicants for public rental housing

(LC Paper No. CB(1) 1944/04-05(04) -- Information paper provided by the Administration)

19. DD of H(S) briefed members on the rising number of one-person applicants (1-P applicants) for public rental housing (PRH) and how the Administration intended to address the issue. The Assistant Director of Housing (Strategic Planning) (AD of H(SP)) then gave a power-point presentation on details of the relevant considerations and possible options for addressing the issue. These included -

- (a) Option A – prohibiting non-elderly 1-P applicants who were living in PRH or other subsidized housing from applying PRH;
- (b) Option B – setting age restriction for non-elderly 1-P applicants;
- (c) Option C – setting an annual quota for non-elderly 1-P applicants; and
- (d) Option D – setting an annual quota for non-elderly 1-P applicants and establishing a points system to accord priority to applicants of higher age.

20. Members said that the number of non-elderly 1-P PRH applicants was on the rise because separate accommodation was required for various reasons, such as marriage and overcrowding relief etc. They therefore considered it necessary for the Administration to conduct a survey to ascertain the size of the problems so that these could be tackled properly. In response, DD of H(S) confirmed that a survey on PRH applicants had been conducted and the report would be ready in July 2005. At members' request, the Administration agreed to provide the report to the Panel after this had been considered by the Housing Authority (HA). AD of H(SP) added that the initial findings revealed that many non-elderly singletons applied for PRH because they wanted to improve their living conditions or considered that being PRH tenants could enjoy many other benefits. DD of H(S) said that there was an important distinction between those having "aspirations" to live on their own and those who had genuine housing needs. The question all boiled down to how allocation of scarce housing resources was to be prioritized taking account of different competing demands. In response to Mr Frederick FUNG's question, DD of H(S) confirmed that during the economy downturn a few years ago, even people with tertiary education or above earning less than \$6,000 a month had applied for PRH. The number of such cases had decreased with the revival of economy.

Possible improvement options

21. Referring to Options (A) and (B), Mr LEUNG Yiu-chung considered it unfair for the Administration to restrict non-elderly 1-P applicants from applying for PRH based on the results of the survey. Miss CHAN Yuen-han also held the view that it was undesirable to criticize non-elderly 1-P applicants who sought to live away from home as a waste of public housing resources. They should be allowed to apply for PRH as long as they could meet the eligibility criteria. Given the high cost of private accommodation, Mr LEUNG Kwok-hung pointed out that some singletons might not be able to improve their living condition if they were denied access to PRH. He cautioned that the Administration might have infringed the discrimination ordinances in Hong Kong by depriving non-elderly 1-P applicants of their opportunity for public housing on account of their age or marital status. He also pointed out that non-elderly singletons would have difficulty in finding jobs if they did not have a permanent address. The Administration should liaise with relevant parties, such as YMCA and YWCA, to provide special types of housing to non-elderly singletons as in the case of Norway. Mr Patrick LAU opined that non-elderly 1-P applicants might not need self-contained PRH flats but hostel-like flats. Instead of discouraging them from applying for PRH, efforts should be made to ascertain their needs first so that resources could be more effectively utilized to meet their needs. Flexibility should also be exercised to allow them to move to other types of flats where there were changes in family circumstances.

22. In response, DD of H(S) reiterated that the Administration had never criticized the non-elderly 1-P applicants for wasting or abusing housing resources, nor had it singled out non-elderly 1-P applicants using the results of the survey, which was in fact an annual survey on all Waiting List applicants to ascertain their socio-economic profile. The upsurge in the number of non-elderly 1-P applicants had aroused concern as to whether these applicants faced the same housing needs as elderly applicants or other households comprising more than one person, and whether they should be accorded the same priority in competing for limited public housing resources. He also assured members that the Administration would seriously examine the legal implications arising from the possible improvement options. Mr LEUNG Yiu-chung however was not convinced of the Administration's explanation. He was skeptical that the reason for conducting the survey was to pave way for HA to cut PRH production given its stringent financial position.

23. Mr WONG Kwok-hing opined that in considering applications for PRH from non-elderly 1-P applicants, special consideration should be given to those who were willing to live with the elderly or those with poor health condition. AD of H(SP) took note of Mr WONG's views. He also confirmed that HA had introduced a number of housing schemes under which public housing was provided for the elderly on a priority basis. These included the Families with Elderly Persons Priority Scheme where eligible families would have their housing allocation advanced by three years at most. He however saw difficulty in including health condition as an eligibility criterion for PRH. DD of H(S) supplemented that at present, special cases involving serious illness or family problems were already given priority under the

compassionate re-housing category upon recommendation by the Social Welfare Department.

24. Noting that HA had already been reducing the number of flats allocated to 1-P applicants through capping the number of 1-person flats at 10% since 1998, Mr Frederick FUNG did not agree that further restrictions should be imposed to discourage non-elderly 1-P applicants from applying for PRH. He however supported Option D to establish a points system to accord priority to applicants of higher age and those with special needs, such as the disabled.

25. Given the limited resources of HA, Mr Tommy CHEUNG said that Members of the Liberal Party (LP) agreed that care should be exercised in allocating PRH flats to 1-P applicants since the average living space for 1-P applicants was usually higher than that for households comprising two or more persons, thereby the higher housing cost incurred. LP Members therefore supported Option D of setting an annual allocation quota for non-elderly 1-P applicants and establishing a points system to accord priority to applicants of higher age. Consideration should also be given to conducting more regular income and asset assessment of PRH tenants to ensure that public housing was only provided to those in genuine need. Mr CHEUNG hoped that details of the points system, if adopted, would be submitted to the Panel for consideration to ensure fairness and transparency.

26. DD of H(S) thanked members for their views. He stressed that the proposed options were only put forward for consideration how best the demand for PRH generated from non-elderly 1-P applicants should be addressed. Although the majority of HA members were in favour of Option D to set an annual allocation quota for non-elderly one-person applicants while giving priority to applicants of higher age and those who were not receiving any housing assistance by way of a points system, no decision had been made. HA was still consulting interested parties on the preliminary options and would revert back to the Panel on details of the proposed points system.

IV Any other business

27. There being no other business, the meeting ended at 4:35 pm.