

立法會
Legislative Council

LC Paper No. CB(1)1030/05-06

(These minutes have been seen
by the Administration)

Ref : CB1/PL/HG/1

Panel on Housing

Minutes of meeting
held on Monday, 6 February 2006, 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 Albert HO Chun-yan
Hon Fred LI Wah-ming, JP
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Dr Hon YEUNG Sum
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
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
- Members absent** : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, JP
Dr Hon Joseph LEE Kok-long
Hon Patrick LAU Sau-shing, SBS, JP
Hon Albert Jinghan CHENG
- Public officers attending** : **Agenda item IV**
Housing, Planning and Lands Bureau

Mr TAM Wing-pong, JP
Acting Permanent Secretary for Housing, Planning and Lands
(Housing)

Mr Gilbert KO
Principal Assistant Secretary (Housing) (Private Housing)

Estate Agents Authority

Mr Steven POON Kwok-lim, JP
Chairman

Ms Sandy CHAN Pui-shan
Chief Executive Officer

Mr Pius CHENG Kai-wah
Director of Regulatory Affairs and General Counsel

Ms Shirley CHUA Siu-ling
Director of Operations

Agenda item V

Housing, Planning and Lands Bureau

Mr TAM Wing-pong, JP
Acting Permanent Secretary for Housing, Planning and
Lands (Housing)

Mr Gilbert KO
Principal Assistant Secretary (Housing) (Private Housing)

Ms Ivy LAW
Principal Assistant Secretary (Planning and Lands)

Housing Department

Mr HO Chung-cheung
Chief Housing Manager/Applications and Operations

Rating and Valuation Department

Mr LO Hing-chung, JP
Deputy Commissioner

Mr CHAN Kwok-fan
Senior Rent Officer

Attendance by invitation : **Agenda item V**

Kwan Yick Building Concern Group

Ms MAK Wai-chau
Representative

Kai Yuen House Concern Group

Mr LAM Chi-keung
Representative

Elderly Who Ask for Public Housing in Western District

Mr YIP Ming
Representative

Hong Kong Owners Club Ltd

Mr SHEA Hing-wan
Chairman

Ms MUI Wai-ching
Representative

荃灣遠東銀行大廈租戶會

Mr AU Ka-wing
Representative

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

Staff in attendance : Ms Connie SZETO
Chief Council Secretary (1)6

Mr WONG Siu-yee
Senior Council Secretary (1)7

Miss Mandy POON
Legislative Assistant (1)4

I Confirmation of minutes

(LC Paper No. CB(1) 793/05-06 -- Minutes of meeting on
5 January 2006)

The minutes of the meeting held on 5 January 2006 were confirmed.

II Information papers issued since last meeting

2. Members noted that an information paper on the divestment of Housing Authority's retail and car-parking facilities provided by the Administration had been issued since last meeting.

III Items for discussion at the next meeting

(LC Paper No. CB(1) 797/05-06(01) -- List of outstanding items for
discussion

LC Paper No. CB(1) 797/05-06(02) -- List of follow-up actions)

3. The Chairman informed members that the next meeting originally scheduled for 6 March 2006 would have to be rescheduled as he would be out of town. Members agreed to discuss the following items proposed by the Administration -

- (a) Review of income and asset limits for Waiting List applicants; and
- (b) Public consultation on policy on public housing rent.

Members also noted that the readiness of discussion on item (b) would be subject to confirmation by the Housing Authority.

(Post-meeting note: The next regular meeting had been rescheduled for Friday, 17 March 2006, at 8:30 am.)

4. The Chairman reminded members of the visit to surplus Home Ownership Scheme flats on 21 February 2006. Pursuant to members' decision at the last meeting on 5 January 2006, the programme for the visit would only be issued nearer the time of the visit. Members would be requested to indicate their choice of transport.

IV Overview of the work of the Estate Agents Authority

(LC Paper No. CB(1) 797/05-06(03) -- Information paper provided by the
Administration)

5. At the Chairman's invitation, the Acting Permanent Secretary for Housing, Planning and Lands (Housing) (Atg PSH) gave an introduction to the background of the Estate Agents Authority (EAA). The Chairman, EAA then briefed members on the

work and new initiatives of EAA by highlighting the salient points in the information paper.

Examinations and licensing

6. The Chairman, EAA said that to raise the standard of practitioners, EAA had revamped the Estate Agents Qualifying Examination in July 2005, introducing a new format, wider scope and more in-depth case studies. The pass rate for the examination had dropped significantly since the change. In a bid to further ensure that only those who had the required professional knowledge and skills would enter the trade, EAA would also raise the level of the Salespersons Qualifying Examination in July 2006.

7. Dr YEUNG Sum noted with concern about the low pass rate which had dropped from an average of 42% in 2004 to an average of 21% for the two examinations held in the second half of 2005. The Chief Executive Officer (CEO), EAA advised that under the existing regime, an individual who wished to carry out estate agency work in Hong Kong was required to, among other things, have completed Form 5 or its equivalent and have passed the relevant qualifying examination. Though more and more individuals with higher educational credentials were now entering the trade, the overall educational standard of licensees remained generally low. To raise the overall standard of practitioners in the longer term, it was necessary to ensure that new entrants were knowledgeable about all major areas of estate agency work so that they could competently discharge their duties. The qualifying examination was the necessary tool to achieve the purpose and EAA would not compromise quality for a higher pass rate. The Chairman, EAA said that the low pass rate might be partly due to the fact that some candidates were not well prepared for the examination.

8. Miss CHAN Yuen-han said that she had raised objection to the setting of a minimum qualification of Form 5 standard for practitioners when the Estate Agents Bill was considered by the relevant Bills Committee, which in her view would prevent those who did not have the requisite qualifications but possessed the necessary sale skills from entering the estate agency trade. She added that she was not opposed to raising the levels of the qualifying examinations, but considered that corresponding measures should be mapped out to assist those who were interested in estate agency work to enter the trade. While acknowledging the benefits of training, the Chairman, EAA advised that the provision of training fell outside the terms of reference of EAA. Besides, there were at present no training courses for estate agency work. In this connection, EAA would explore with educational/training institutes the feasibility of offering tailor-made training courses for those who were interested in estate agency work. To facilitate members' understanding, the Chairman requested and EAA undertook to provide the number of candidates sitting for the qualifying examinations over the past few years. It might be worthwhile for EAA to liaise with the Employees Retraining Board to organize training courses for prospective candidates if the demand was great. This would be a more effective measure in enhancing the quality of practitioners.

EAA

(Post-meeting note: EAA had advised that at present two educational institutes, namely the University of Hong Kong (School of Professional and Continuing

Education) and the Caritas Adult and Higher Education Service, were providing training courses for those who were interested in sitting for the qualifying examinations and joining the estate agency trade.)

9. While agreeing to the need to promote professionalism in the estate agency sector, Mr WONG Kwok-hing expressed concern that those long-serving estate agents and salespersons would be forced out of business if they failed to pass the qualifying examinations as a result of the new requirements. The Chairman, EAA clarified that the qualifying examinations were only applicable to new entrants. Existing estate agents and salespersons would not be affected and their licences would not be revoked unless the licensees had committed misdeeds leading to revocation of licences.

Law enforcement

10. Dr YEUNG Sum expressed concern about the surge in the number of complaints and asked how EAA would tackle the problem. The Chairman, EAA said that EAA was equally concerned about the rise in the number of complaints as this would have significant implications on staff deployment. However, the surge in the number of complaints might not be entirely due to malpractice of practitioners, but other factors such as increase in the number of property transactions, enhanced public awareness, better complaints mechanism and effectiveness of EAA in handling complaints.

11. The Chairman suggested that EAA should conduct an analysis on the nature of complaints so that specific measures could be mapped out to tackle the problems. Miss CHAN Yuen-han agreed with the Chairman that EAA should look into the nature of complaints to avoid any misunderstandings that the quality of practitioners was the sole cause for the large number of complaints, adding that practitioners might not be the only party responsible for some of the complaints. The Chairman, EAA undertook to provide an analysis on the complaints received.

EAA

12. Mr WONG Kwok-hing expressed concern about the chaotic situation at some first-sale sites and asked how EAA could maintain proper order of practitioners at these sites. Mr Albert CHAN echoed that compliance checks at first-sale sites should be strengthened to minimize disturbances to the residents concerned. Consideration should also be given to prohibiting practitioners from obstructing entrances and pavements of sale sites as well as nearby Mass Transit Railway stations which might pose a potential safety hazard to the public.

13. Atg PSH said that the Administration held regular meetings with the Real Estate Developers Association of Hong Kong and Consumer Council to discuss measures to ensure order at first-sale sites. It had also requested estate developers to cooperate with the Hong Kong Police Force in this regard. The Chairman, EAA added that he was well aware of the need to maintain proper order at first-sale sites. To this end, EAA had deployed additional manpower to conduct compliance checks at first-sale sites and estate agencies to ensure the latter had proper management of their employees at these sites. Disciplinary actions had been taken against licensees for

misdeeds. There were also cases where assistance from other law enforcement agencies had been sought. CEO, EAA supplemented that actions, including compliance checks, had been stepped up at first-sale sites in 2005 as a result of more first-sale sites and growing public concern about order at these sites. EAA had also issued practice circulars to provide guidelines and directives on estate agency work. These included the need for vendors' consent before advertising the first-sale developments, the provision of accurate property information, such as the number of flats available and prices, to consumers. As estate agencies had the responsibility to ensure effective management of their companies, they were required to keep a record of the staff stationed in first-sale sites. Practitioners were also required to wear their staff identity cards at first-sale sites for checking by EAA. In addition, EAA would promote public awareness of their rights and obligations in property transactions.

14. Mr LEE Wing-tat recognized the importance of accurate property information as this would enable prospective buyers to make informed decisions in property transactions. He asked how EAA could ensure the dissemination of accurate property information by parties other than estate agents and salespersons, such as administrative and public relations staff of estate agencies who might use selective information to boost property prices. The Chairman, EAA said that while EAA was empowered to regulate the conduct of the estate agency trade, it did not have control over other parties, such as the media, in relation to dissemination of property information. He assured members that EAA would conduct compliance checks at first-sale sites and estate agencies to see if there were any cases of non-compliance. CEO, EAA supplemented that EAA could take action against not only individual practitioners, but also estate agencies for the misdeeds of their employees because the law provided that the agencies had a duty to supervise and manage their business properly to ensure compliance with the law. Maladministration of estate agencies, including dissemination of inaccurate property information by staff members, might be subject to disciplinary sanctions. In fact, EAA had meted out disciplinary sanctions to several estate agencies in the past year. Given that the estate agency trade was dominated by a few large estate agencies, Mr LEE Wing-tat opined that EAA should maintain close liaison with these companies to ensure dissemination of accurate property information which the public would rely on before deciding to buy a property. The Chairman, EAA took note of Mr LEE's view.

15. Mr LEUNG Kwok-hung opined that instead of regulating practitioners, actions should be taken against unscrupulous estate developers, which in his view was the crux of the problem because some of them had deliberately disseminated inaccurate property information with a view to boosting the property market for profiteering. He considered that a regulatory body should be established to monitor the operation of estate developers as in the case of the Securities and Futures Commission. Mr Albert CHAN echoed that without the support of the Administration and financial resources, it would be extremely difficult for the general public to take legal action against estate developers through civil litigation for dissemination of inaccurate property information. To this end, consideration should be given to amending the existing legislation to make the provision of inaccurate property information by estate developers a criminal offence. The Chairman, EAA said that he was not in a position to

comment on Mr CHAN's proposal as this fell outside the remit of EAA. Atg PSH advised that the Administration would consider further measures if the existing self-regulation regime was found to be unsatisfactory.

Professional development

16. Mr WONG Kwok-hing opined that professional development programmes should be provided to practitioners. Dr YEUNG Sum echoed that enhancement of the quality of the practitioners would help reduce the number of complaints. In reply, the Chairman, EAA said that EAA acknowledged the importance of continuing professional development (CPD) and had launched a voluntary CPD scheme with a view to enhancing the competence and professional knowledge of practitioners. Under the scheme, all licensees were encouraged to earn at least 10 CPD points (about 10 learning hours) each year. Attainment certificates would be awarded to those who met the 10-point target and these practitioners would be allowed to print an EAA-endorsed CPD attainment symbol on their business cards.

17. Atg PSH added that the Administration strongly supported EAA to promote professionalism of practitioners in order to help to protect the interest of consumers, as some \$400 billion worth of property transactions were dealt through estate agents last year. While acknowledging the concerns that raising the standard for the qualifying examinations might create a hurdle for those who wished to enter the estate agency trade, Atg PSH considered that this was necessary to ensure that only those who were suitably qualified and competent would enter the trade since protection of public interest was much more important than creating job opportunities indiscriminately. He agreed that EAA could explore with relevant educational/training institutes the possibility of providing more training courses for those interested in entering the trade and taking the qualifying examination.

V Impact of the relaxation of security of tenure on tenants

(LC Paper No. CB(1) 2301/04-05(01) -- Referral from Duty Roster Members dated 8 July 2005 regarding provisions under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7)

LC Paper No. CB(1) 67/05-06(01) -- Referral from Duty Roster Members dated 5 October 2005 regarding provisions under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7)

LC Paper No. CB(1) 797/05-06(06) -- Information paper provided by the Administration

LC Paper No. CB(1) 797/05-06(04) -- Joint submission from Kwan Yick Building Concern Group and Kai Yuen House Concern Group

LC Paper No. CB(1) 797/05-06(05) -- Submission from Hong Kong

Owners Club Ltd

LC Paper No. CB(1) 833/05-06(01) -- Submission from 荃灣遠東銀行大廈租戶會)

Meeting with Kwan Yick Building Concern Group (KYBCG)
(LC Paper No. CB(1) 797/05-06(04))

18. Ms MAK Wai-chau, representative of KYBCG, highlighted the salient points in the submission. She urged the Administration to review the Landlord and Tenant (Consolidation) (Amendment) Ordinance (the Amendment Ordinance), particularly in respect of the abolition of security of tenure and the removal of statutory compensation upon redevelopment.

Meeting with Kai Yuen House Concern Group (KYHCG)
(LC Paper No. CB(1) 797/05-06(04))

19. Mr LAM Chi-keung, representative of KYHCG, said that the removal of provisions on statutory redevelopment compensation had encouraged developers to look for redevelopment opportunities, thereby further aggravating the plights of tenants who were mainly low-income households, many of them could not afford the relocation expenses and the higher rents for the alternative accommodation, particularly in the absence of statutory compensation. He urged the Administration to review the Amendment Ordinance taking into account the plights of tenants.

(Post-meeting note: The further joint submission from KYBCG and KYHCG tabled at the meeting was subsequently circulated to members vide LC Paper No. CB(1) 857/05-06(02) on 7 February 2006.)

Meeting with Elderly Who Ask for Public Housing in Western District (EWAPHWD)

20. Mr YIP Ming, representative of EWAPHWD, said that he had been worrying about accommodation since he was given notice to move out of his present dwelling by the landlord. Fortunately, the Housing Department (HD) had informed him this morning, just before the meeting, that public rental housing (PRH) could be arranged for him. He hoped that members could assist other affected elderly tenants to rehouse to PRH. He also hoped that developers would offer compensation to tenants upon redevelopment taking into account the financial difficulties of tenants.

(Post-meeting note: The submission tabled at the meeting was subsequently circulated to members vide LC Paper No. CB(1) 857/05-06(01) on 7 February 2006.)

Meeting with Hong Kong Owners Club Ltd (HKOC)
(LC Paper No. CB(1) 797/05-06(05))

21. Mr SHEA Hing-wan, Chairman of HKOC, highlighted the salient points in the submission. Ms MUI Wai-ching, representative of HKOC, added that she supported

the Amendment Ordinance. She said that if the relaxation of security of tenure had been implemented earlier, she would not have to go through a painful process in order to repossess her aged property. She said that since the tenants refused to clear their unauthorized building works (UBWs) as required by the Buildings Department, she had to pay some \$80,000 as compensation to those tenants so that they could move out and allow her to clear the UBWs concerned, which had cost her some \$400,000. She held the view it was the responsibility of the Government to care for the needy, rather than landlords.

Meeting with 荃灣遠東銀行大廈租戶會
(LC Paper No. CB(1) 833/05-06(01))

22. Mr AU Ka-wing, representative of 荃灣遠東銀行大廈租戶會, briefed members on the submission.

Discussion

23. ***On transitional arrangement***, Mr Frederick FUNG said that he had voted against the Bill in 2004. He maintained his view that the Administration should review the Amendment Ordinance to prohibit eviction of tenants if they agreed to pay the rents required by landlords. He also considered that period of Transitional Termination Notice (TTN) of one year for termination of tenancy might not be sufficient for tenants to find alternative accommodation of comparable size and rent in the nearby districts, let alone the relocation expenses. Atg PSH said that the Bill was passed after detailed scrutiny by the relevant Bills Committee. One of the objectives of the Bill was to remove security of tenure provisions to restore the free operation of the private residential rental market and better balance the interests between landlords and tenants. Since the enactment of the Amendment Ordinance, the number of tenancy disputes had decreased. As regards TTN, Atg PSH said this was included after extensive discussion during the Bills Committee stage to assist low-income tenants to adapt to changes arising from the removal of security of tenure provisions. Under the arrangement, should a landlord choose not to renew a domestic tenancy which was in existence before the Amendment Ordinance came into effect, the landlord must serve a TTN after the term of the tenancy had expired. TTN must be served by the landlord not less than 12 months before the intended termination date. During the 12-month notification period, all terms and conditions of the original rental agreement would remain unchanged, thus allowing the affected tenants to enjoy the same tenancy terms as before while seeking new accommodation.

24. ***On redevelopment compensation and assistance to tenants with genuine housing need***, Mr WONG Kwok-hing enquired about the measures which the Administration would take to plug the loopholes in the Amendment Ordinance to avoid recurrences of the Kwan Yick Building and Kai Yuen House cases where landlords refused to pay compensation to tenants upon redevelopment as well as the 荃灣遠東銀行大廈 case where the landlord carried out major renovation works when there were still tenants living in the building, thereby causing unduly inconvenience to tenants concerned.

25. Atg PSH explained that the abolition of security of tenure under the Amendment Ordinance aimed at better balancing the interests between landlords and tenants. Besides, a safety net was always in place to help tenants in need after the removal of security of tenure. Assistance would be provided for tenants who had genuine difficulties in finding new accommodation to ensure that they would not be rendered homeless if their tenancy agreements were not renewed. They could also apply for PRH if they met the eligibility criteria. As regards statutory redevelopment compensation, Atg PSH said that this was founded on the principle that the law accorded protection to tenants in the form of security of tenure. Once the security of tenure was removed, the statutory basis for redevelopment compensation would no longer exist.

26. Mr WONG Kwok-hing however noted that the Urban Renewal Authority (URA) was offering redevelopment compensation to tenants affected by its redevelopment projects. He urged the Administration to review the Amendment Ordinance to ensure that tenants affected by private redevelopment should also be eligible for compensation. Atg PSH explained that during the passage of the Amendment Ordinance, some Members considered that eligible domestic tenants in the remaining former Land Development Corporation (LDC) projects should be offered some compensation. URA had taken on board Members' view and agreed to provide, through administrative measures, appropriate ex gratia allowance for domestic tenants affected by its redevelopment projects (including non-former LDC projects) in line with its "people-oriented" approach. Atg PSH also pointed out that under the Amendment Ordinance, landlords were not required to provide any grounds for not renewing tenancies. As such, it would be difficult to ascertain whether non-renewal of tenancies was due to redevelopment. Notwithstanding, private developers could, having regard to individual circumstances, have dialogue with tenants and formulate compensation arrangements acceptable to both parties. He added that the Administration had no intention to review the Amendment Ordinance at this stage since its effects were well within the expectation of the Administration. Mr WONG was disappointed that the Administration should turn a blind eye to the plights of tenants.

27. Dr YEUNG Sum pointed out that affected tenants with income and assets marginally exceeding the income and asset limits for PRH could not benefit from the safety net. He added that tenants might be reluctant to move to interim housing flats given their remote locations. Mr Frederick FUNG echoed that the existing eligibility criteria for PRH were more stringent than those for the Comprehensive Social Security Assistance Scheme. He stressed that housing was a basic need and hence should not be handled in a purely commercial way. There was a need to review the Amendment Ordinance, which in his view was totally inclined towards protecting the interest of the landlords. Expressing similar concerns, Mr LEUNG Kwok-hung opined that the removal of security of tenure had led to a rise in rentals in the private market, which would in turn boost up the property prices and would eventually benefit estate developers. The need for rental assistance would also increase as a result of the rise in private rentals, thereby placing greater demand on public resources. He therefore

considered it essential for the Administration to put in place a comprehensive plan to meet the housing needs of the needy based on priority.

28. On *cases relating to Kwan Yick Building and Kai Yuen House*, Atg PSH said that HD had received nine requests for assistance and all of them had been properly dealt with under the existing mechanism. The Administration would endeavour to assist the affected tenants taking into account their individual circumstances. The Chief Housing Manager/Applications and Operations added that HD would do its utmost to provide assistance to the affected tenants taking as far as possible their preferences into consideration.

29. On *cases relating to 荃灣遠東銀行大廈*, Atg PSH said that all, except one case, had been resolved. The Senior Rent Officer supplemented that the landlord concerned was able to reach an agreement with most of the tenants, except nine, before carrying out the major renovation works. The remaining cases were referred to the Rating and Valuation Department (RVD) in May 2005 and later to the Complaints Division of the Legislative Council. Seven relevant departments, namely the Labour Department, Electrical and Mechanical Services Department, Buildings Department, Environmental Protection Department, Food and Environmental Hygiene Department, Fire Services Department and RVD had looked into the cases, but could not find any breach of the existing legislation as far as the renovation works were concerned. RVD had sought legal advice confirming that no legal action could be taken against the landlord in the absence of non-compliances. With the assistance of the Home Affairs Department and Hon LEUNG Yiu-chung, RVD was able to assist the landlord to reach an agreement with eight out of the nine remaining tenants. The remaining one case had yet to be resolved and RVD would continue to monitor the situation.

VI Any other business

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