

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2203/05-06  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/HG/1

**Panel on Housing**

**Minutes of meeting**  
**held on Monday, 3 July 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 Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
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 Albert CHAN Wai-yip  
Hon WONG Kwok-hing, MH  
Dr Hon Joseph LEE Kok-long, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** : Hon James TO Kun-sun  
Hon Frederick FUNG Kin-kee, SBS, JP  
Hon CHEUNG Hok-ming, SBS, JP  
Hon Albert Jinghan CHENG

**Public officers  
attending**

: Agenda Item IV

Mr Thomas C Y CHAN, JP  
Permanent Secretary for Housing, Planning and Lands  
(Housing)

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

Mr Gilbert KO  
Principal Assistant Secretary for Housing, Planning and Lands  
(Private Housing)

Mr Jeremy GLEN  
Assistant Director/Legal (HK&NTW)  
Lands Department

Agenda Item V

Mr Martin CHEUNG Kin-keung  
Assistant Director (Project)1 (Acting)  
Housing Department

Mr John NG Cheuk-yee  
Chief Architect 3  
Housing Department

Mr YEUNG Kwok-kuen  
Deputy Head of Civil Engineering Office (Port & Land)  
Civil Engineering and Development Department

Mr Paul CHEUNG Kwok-kee  
Assistant Director (Leisure Services)1  
Leisure and Cultural Services Department

**Attendance by  
invitation**

: Consumer Council

Mrs Pamela CHAN, BBS, JP  
Chief Executive

Estate Agents Authority

Ms Sandy CHAN  
Chief Executive Officer

Mr Pius CHENG  
Director of Regulatory Affairs & General Counsel

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

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

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

Ms Michelle NIEN  
Legislative Assistant (1)9

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Action

**I. Confirmation of minutes and matters arising**

(LC Paper No. CB(1)1858/05-06 — Minutes of meeting on 9 May 2006

LC Paper No. CB(1)1857/05-06(01) — List of outstanding items for discussion

LC Paper No. CB(1)1857/05-06(02) — List of follow-up actions)

The minutes of the meeting held on 9 May 2006 were confirmed.

**II. Endorsement of the report of the Panel for submission to the Council**

(LC Paper No. CB(1)1859/05-06 — Draft report of the Panel for submission to the Council)

2. Members took note of the draft report of the Panel which would be tabled at the Council meeting on 12 July 2006 in accordance with Rule 77(14) of the Rules of Procedure. They also authorized the Chairman to make necessary modifications to the report taking into account issues discussed at the current meeting.

**III. Information papers issued since last meeting**

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

**IV. Arrangements for selling first-hand residential units**

(LC Paper No. CB(1)1857/05-06(03) — Information paper provided by the Administration

LC Paper No. CB(1)1857/05-06(04) — Background brief on “arrangements for selling first-hand residential properties” prepared by the Legislative Council Secretariat

LC Paper No. CB(1)1409/05-06(01) — Letter dated 27 April 2006 from Hon LEE Wing-tat to the Chairman regarding the collection and dissemination of information on property transactions)

Briefing by the Administration, Consumer Council and Estate Agents Authority

4. The Permanent Secretary for Housing, Planning and Lands (Housing) (PS/HPL(H)) briefed members on recent developments regarding the monitoring of sale arrangements of first-hand private residential properties. He highlighted the salient points, as follows:

- (a) At the motion debate on “Regulating the transaction of new private residential properties” at the Council meeting on 7 June 2006, the Secretary for Housing, Planning and Lands (SHPL) had responded to questions relating to this subject matter;
- (b) It was the Administration’s policy to strike a balance between protecting the rights of consumers and maintaining a free business environment. Since 2001, the Real Estate Developers Association of Hong Kong (REDA) had been operating a self-regulatory regime under which REDA issued guidelines for its members to follow in connection with sale of uncompleted residential units. REDA would update its guidelines as and when necessary. Furthermore, the Consumer Council (CC) had been promoting consumer education and the Estate Agents Authority (EAA) had been stepping up enforcement actions and taking measures to raise the calibre of estate agents. This three-pronged approach had greater flexibility and could better cater for the changing needs of the local residential property market compared to the option of regulation through legislation;

- (c) As a deterrent measure, the Lands Department (LandsD) would take appropriate action against developers if there was any breach of the requirements of the Consent Scheme for sale of uncompleted residential units. The Housing, Planning and Lands Bureau (HPLB), in conjunction with CC and EAA, held regular meetings with REDA to identify scope for further improvement to the existing mechanism; and
- (d) In response to the community's recent concerns, REDA had standardized the definition of "sales" to refer to the signing of a provisional agreement for sale and purchase in order to enhance clarity of the sales figures, and asked its members to include in their sales brochures information about "defect liability period" for first-hand residential units and to ensure that the disclosed sales figures were accurate. EAA had recently issued practice circulars reminding estate agency firms to strengthen management of their estate agents. CC and EAA had also jointly published a checklist listing out the things that buyers of first-hand residential properties should pay particular attention to in order to protect their own interests.

5. The Chief Executive of the Consumer Council (CE/CC) said that the checklist on first-hand residential properties (Annex 4 to the Administration's information paper) highlighted issues that buyers should take note of, such as ensuring that important matters explained or guaranteed by the developers' staff or other persons were written into the provisional and formal agreements for sale and purchase or a separate agreement, the right to read the Government Lease and Deed of Mutual Covenant free of charge, and whether to engage independent solicitors who did not act for the developer in order to protect the interests of buyers.

6. The Chief Executive Officer of the Estate Agents Authority (CEO/EAA) said that EAA had issued a practice circular in June 2006 reminding licensed estate agencies of the duty to manage their business effectively, where the management of estate agencies were required to ensure proper conduct of their employees and the latter's compliance with the provisions of the Estate Agents Ordinance (Cap. 511). Estate agencies were required to keep a record of their employees deployed at first-sale sites and to ensure that only licensed estate agents and salespersons were engaged in estate agency work to facilitate law enforcement in case of misdeeds. They were also required to ensure that their information and advertisements about properties were accurate.

## Discussion

### *Provision of price lists for units under the sale*

7. Mr LEE Wing-tat considered that price list was important information to facilitate prospective buyers in making informed decisions in property transactions. Noting that REDA's guidelines had required its members to provide the price list for the first batch of units put on offer, Mr LEE was concerned that developers could offer a very small quantity of units in the first batch and a large number of units in the subsequent batches so as to circumvent from the requirement. In this connection, he asked whether there was requirement on developers regarding the provision of price lists for additional units offered in a sale.

8. In response, PS/HPL(H) explained that under REDA's guidelines, developers needed to provide a price list of the first batch of units on offer at least 24 hours before commencement of private sale. As for subsequent batches of units, REDA had agreed that developers should provide price lists as soon as possible. In this connection, Mr LEE Wing-tat considered the arrangement was far from satisfactory and could not protect the interests of buyers. Mr LEE urged the Administration to lay down clear requirement on the timing for provision of price lists for additional units offered under the sale. Given that the sale of uncompleted units were regulated under the Consent Scheme, Mr LEE further suggested that the Administration should consider withdrawing the consent if developers refused to provide price lists for additional units.

9. In response, PS/HPL(H) pointed out that as the prices of units might be subject to adjustment due to changes in market situation, it would be reasonable for developers to provide price lists for additional units on offer as soon as possible. It might not be practicable to expect developers to suspend sale for a certain period of time to issue new price lists after the first batch of units had been sold out. He added that there were stringent provisions under the Consent Scheme for regulating the sale of uncompleted residential units. The Scheme had been operating effectively and there were few cases of non-compliance by developers. The Assistant Director/Legal (HK&NTW) of the Lands Department supplemented that although there were no requirements governing the provision of price lists in private sale under the Consent Scheme, LandsD could suspend the sale or withdraw the consent if developers breached the provisions of the Scheme.

10. Sharing members' concern, Mr Albert HO pointed out that it could be possible for developers to provide the price lists first and make adjustments afterwards if necessary. Mr LEE Wing-tat considered that there could be different interpretation on the term "as soon as possible". He suggested that the Administration should set a reasonable time limit for developers to comply with. Mr LEUNG Kwok-hung considered that there would be no difficulty for developers to comply with the requirement by adjusting their operations.

11. In response, PS/HPL(H) reiterated that developers were expected to provide as soon as possible price lists for subsequent batches of units on offer. While it would be difficult to set a time limit in this respect, developers were expected to produce the price list for additional units within a reasonable timeframe. The Deputy Secretary for Housing, Planning and Lands (Housing) (DS/HPL(H)) said that there had been discussions on the feasibility of developers providing price lists before the sale for subsequent batches began. Given that developers could make an instantaneous decision to offer additional units for sale if there was favourable response on the first batch, and that specific units could be offered for sale upon request from individual buyers, members' suggestion might entail suspension of the sale pending the preparation of a new price list. Not only would there be difficulty in specifying a time limit for provision of price lists in this regard, it would also hinder free operation of the property market. Nonetheless, PS/HPL(H) took note of members' concern and agreed to ask REDA to explore the feasibility of setting a reasonable time limit for developers in providing price lists for additional units offered for sale having regard to the need of providing prospective buyers with timely information to facilitate the making of informed decisions and allowing developers to continue to have the necessary flexibility in selling first-hand flats.

12. The Chairman commented that it would be a fair arrangement for both buyers and developers for the latter to provide price lists before commencement of the sale of subsequent batches of units.

13. In this connection, Mr Abraham SHEK expressed concern about the need for developers to suspend the sale and said that buyers might not be willing to wait for the new price lists and might lose the interest in purchasing the properties. He further considered that the time between signing of the provisional and formal agreements for sale and purchase of properties would provide buyers with a cooling-off period. He also said that REDA welcomed suggestions from members and the community to further improve the sale arrangements for residential properties.

#### *Calculation of floor area for units*

14. Mr LEE Wing-tat and Mr Albert HO said that the Democratic Party was disappointed that despite years of discussion, many issues relating to the sale of first-hand residential units had remained unresolved and considered that the Administration had not taken adequate steps to protect the interests of property buyers. They were disappointed that despite the Sales Descriptions of Uncompleted Residential Properties White Bill was published for public consultation in 2000 with the aims to enhance the accuracy, uniformity and transparency of information provided in sales brochures and advertisements regarding the public sale of uncompleted residential properties, the Administration had not introduced the bill into the Legislative Council (LegCo). In this connection, Mr LEE and Mr HO remarked that one of the major unresolved issues was the lack of a standardized method for the calculation of floor area for units.

15. PS/HPL(H) advised that there were provisions under the Consent Scheme requiring developers to provide information on floor area of units in sales brochures. On the calculation of floor area for units, The Principal Assistant Secretary for Housing, Planning and Lands (Private Housing) (PAS/HPL(PH)) said that as pointed out in previous discussions, there could be practical difficulties in standardizing the calculation of internal floor area. For instance, the actual internal floor area of a unit measured upon completion could differ from the internal floor area estimated at the time of sale as the actual thickness of the finished walls could vary owing to workmanship. The actual internal floor area of units could also vary depending on the floor level because in general, wall thickness would decrease as the floor level increased. Moreover, there were different views as to whether different terms, such as “internal usable area”, “saleable area” or “gross floor area” should be used in representing floor area. In view of the difficulties, REDA had adopted in its guidelines the terms “saleable area” and “gross floor area”. The calculation of “saleable area” of a residential property was based on criteria set out in the Consent Scheme, while that of “gross floor area” followed the practice adopted by the real estate sector. The real estate sector and the community in general were accustomed to the existing method of making reference to the gross floor area and saleable area. Developers already provided in sales brochures a breakdown of the area of unit-specific features, such as balconies and bay windows, in presenting the saleable area so that buyers were free to take out or retain the areas of those features when calculating the “efficiency ratio” of a unit. He noted that the Hong Kong Institute of Surveyors was currently examining the feasibility of standardizing the calculation of gross floor area. If a standardized formula could be agreed, REDA could be asked to consider adopting the new calculation method in its guidelines.

16. With the advancement in technology, Mr LEUNG Kwok-hung said that developers should have no difficulty in working out the internal floor area for individual units in a property, which in his view, should exclude the thickness of the walls. Mr LEUNG considered that the Administration had deceived the public in this regard. In this connection, PS/HPL(H) sought the Chairman’s advice on whether Mr LEUNG’s remark relating to the Administration was appropriate. The Chairman said that Mr LEUNG had stated his views on the matter. He added that it would be advisable for members to support their views with evidence. In this regard, Mr LEUNG insisted that his remarks were appropriate.

17. Mr Patrick LAU remarked that during the preparation of building plans, architects would calculate the floor area of the units, which included the “usable area” of the units, such as areas of balconies, toilets, store rooms, living rooms and rooms, and excluded the area of facilities such as bay windows and lobbies. The areas for common facilities would also be provided for reference of buyers. He agreed that it was necessary for the real estate sector to work out a standardized method for calculating “usable area”.

18. DS/HPL(H) agreed that it was necessary to standardize the method for calculating floor area of units which was acceptable by the real estate sector and the community. He reiterated that the Hong Kong Institute of Surveyors was conducting a relevant study in this area and that depending on the outcome of that study, the Administration would follow up with REDA as appropriate. Estate agents also had the duty to explain different types of areas to buyers.

19. CE/CC re-affirmed that apart from gross floor area and saleable area, the area occupied by facilities, such as balconies and bay windows, were also provided in the sale brochures. While the term of gross floor area had been standardized, there was no consensus on the method for the calculation of internal floor area of a unit. CC hoped that a standardized method could be identified as soon as possible to protect the interests of consumers.

20. Mr Abraham SHEK concurred that the calculation of saleable area of units would be complicated by variation in the thickness of the walls. As the sales brochures had already provided information on gross floor area and saleable area, he opined that buyers could have an idea on the efficiency ratio of the units.

*The need of introducing legislation to govern the sale of first-hand residential properties*

21. Mr Albert CHAN expressed concern about lack of regulation on the sale of first-hand residential properties. He commented that there were many problems associated with property transactions and loopholes in the existing monitoring mechanism. These included purchase of properties by parties connected with the developers, incomplete and inaccurate information on properties resulting in losses by buyers, unfair sale practice where solicitors engaged by the developers had failed to protect the interests of buyers etc. In his view, these problems were evidence of transfer of benefits and collusion of Government with developers. Very often buyers lacked the financial means to protect their rights in property transactions and were not eligible for legal aid in taking legal action against developers. Mr CHAN stressed the need of introducing legislation to protect the interests of property buyers rather than relying on the self-regulatory regime of REDA which had proven ineffective in regulating developers. In this connection, he sought the view of CC about enacting legislation for regulating the sale of first-hand residential properties.

22. As many of the issues raised by Mr Albert CHAN concerned the Administration, the Chairman invited PS/HPL(H) to give a response. Mr Albert CHAN said that he had directed the question to CC. The Chairman said that he would invite CE/CC to respond if necessary. Mr CHAN stated his objection to the way the Chairman had handled the matter. He then left the meeting to express his dissatisfaction in this regard.

23. PS/HPL(H) said that he would not comment on Mr CHAN's personal views. CE/CC said that while CC supported the Law Reform Commission's

recommendation of introducing legislation to regulate the sale of uncompleted residential properties, it considered that both legislation and the self-regulatory regime were workable approaches in protecting the interests of consumers. CC understood that the self-regulatory regime was taken as a first step and that the Administration had not ruled out the possibility of introducing legislation in the future if the situation so warranted.

24. Mr Albert HO urged the Administration to consider adding provisions under the Consent Scheme to protect the interests of property buyers. He pointed out that while disciplinary actions could be taken against misdeeds of estate agents, there was no sanction against misdeeds committed by developers under the current self-regulatory regime. He reiterated the need to enact legislation to sanction misconduct of developers. By advising buyers to take legal action against developers on their own, the Administration had not taken effort to protect the interests of buyers. PS/HPL(H) reiterated that the Administration had not ruled out the option of enacting legislation to regulate the sale of uncompleted residential units and undertook to revisit the issue if the situation so warranted.

25. Mr LEUNG Kwok-hung considered that enacting legislation would be more effective than relying on REDA's self-regulatory regime in protecting consumers' interests. He regretted that the relevant motion moved at the Council meeting on 7 June 2006 was negated. In his view, the impact of the property market on Hong Kong was no different from that of the securities market. The Administration should monitor and regulate the property market to punish and deter misconduct of developers. On the question of enacting legislation, PS/HPL(H) said that SHPL had already clearly explained the Administration's position in his response to the motion at the Council meeting.

26. Mr Alan LEONG enquired about the criteria to be considered by the Administration in deciding whether the situation in the property market would warrant the introduction of legislation. PS/HPL(H) said that given that only seven complaints had been received by HPLB since REDA announced a more detailed set of guidelines in June 2005, there seemed to be no overwhelming justification to introduce legislation at present. Nonetheless, he stressed that the Administration would continue to monitor the market closely and consult the relevant stakeholders including CC if it was necessary to revisit the issue in question.

*Measures to enhance protection for consumers' interests in property transactions*

27. In response to Mr LEE Wing-tat's enquiry about complaints received by CC and EAA on sale of first-hand residential units, CE/CC said that CC had received some 40 complaints from January 2006 to May 2006. CEO/EAA said that in 2005, EAA received a total of 43 relevant complaints and suspended 15 licences arising from complaints and compliance checks in relation to first sales. Information on the disciplinary actions taken by EAA had been disseminated through various channels including Gazette notices and professional newsletters.

28. Mr WONG Kwok-hing enquired whether CC would consider providing information through illustrative cases on the common problems encountered in property transactions in order to alert consumers. For instance, Mr WONG considered that property buyers should be made aware of the possible risk of engaging the same solicitor of the developer to act for them in property transactions.

29. In reply, CE/CC said that CC had been providing prospective buyers with information from time to time through various means, such as publications like the "CHOICE" magazine and a booklet entitled "Sale and Purchase of Flats in Hong Kong" to highlight important points and provide illustrative cases in property transactions. She added that the solicitor played an important role in protecting the buyer's interests in a property transaction. The buyer might be exposed to risk if he engaged the same solicitor of the developer because in case of conflict of interest, the solicitor concerned might not be able to protect the buyer's interests. The solicitor concerned had the duty to explain such risk to the buyers. CC had been alerting consumers of the possible risk in this regard through publications and would step up further publicity. The checklist jointly published by CC and EAA had also drawn buyers' attention to this problem.

30. Referring to the seven complaints relating to the sale of first-hand residential units received by the Administration since June 2005, Mr WONG Kwok-hing enquired about follow-up action taken by the Administration, in particular, whether it had conducted investigations into the complaints and imposed sanctions, such as issuing warning letters to developers identified with malpractice. Noting that in three of the cases, the Administration had merely asked the complainants to consider taking legal action to pursue their interests, Mr WONG considered that the Administration had not provided concrete assistance to complainants.

31. As regards sanctions against malpractices of developers, PS/HPL(H) said that criminal and civil liabilities could be involved. For instance, resorting to fraud in the course of a property transaction might amount to a criminal offence and offenders might be liable to prosecution under the Theft Ordinance (Cap. 210). In terms of civil liability, at common law where a misrepresentation amounted to fraud, an action for damages in tort for deceit was possible. Pursuant to the Misrepresentation Ordinance (Cap. 284), a person who made a misrepresentation inducing another person to enter

into a contract might also be liable for damages. PS/HPL(H) stressed that the buyers concerned could initiate legal action against the developers under these circumstances and provide relevant evidence. In this connection, Mr LEUNG Kwok-hung expressed support for the setting up of an independent body vested with sufficient investigative powers to regulate the property market. PS/HPL(H) said that SHPL had already explained in detail the Administration's position on the matter. The above-mentioned existing legislation could be taken advantage of only if the aggrieved buyers would initiate legal action against misconduct of developers.

32. In relation to follow-up actions taken by the Administration on the complaints, PAS/HPL(PH) said that for cases relating to provision of incomplete information in the sales brochure, such as location plans not drawn to scale, HPLB would contact REDA to verify the cases. If the complaints were substantiated, REDA would take follow-up actions with the developers concerned to rectify the situation. As for complaints relating to information that could not be verified before the units were completed, such as whether the scheduled completion date could be met or whether a certain type of finishing was used, it would be up to the buyer to take up the matter with the developer upon completion of the project. Checking the sale brochure at the time of sale could not prevent such problem from emerging. If the complaint was due to misunderstanding between the complainant and the developer, REDA would ask the developer concerned to provide clarification. For complaints relating to provision of misleading information or fraudulent behaviour of developers, if the developers concerned replied that they had not committed any wrongdoing, the Administration would suggest to the complainants that they could consider taking legal action. In such event, the court would adjudicate the cases having regard to evidence produced by relevant parties.

33. Referring to SHPL's speech on the motion moved at the Council meeting on 7 June 2006, Mr LEUNG Yiu-chung said that the Administration seemed to suggest that given that developers thrived on business reputation, the media would act as an effective watchdog over the developers by reporting their misconduct and hence it was unnecessary to enact legislation in this respect. Mr LEUNG, however, considered the argument unsound and queried whether it would be sufficient to protect the interests of buyers by relying solely on the media to monitor developers.

34. PS/HPL(H) believed that report of the media had a deterrent effect against misconduct of developers and that the media played an important role in reporting matters of public concern. He added that apart from monitoring by the media, the existing mechanism also included other elements in protecting the interests of the public. These included the Consent Scheme, Theft Ordinance, Misrepresentation Ordinance etc. DS/HPL(H) supplemented that coupled with the self-regulatory regime by REDA, CC had been educating the public of their rights through various means and EAA had established guidelines governing the conduct of estate agents and the management of estate agencies. The Administration had been meeting regularly with REDA, CC and EAA to monitor the operation of the regime and to identify scope for further improvement. He reiterated that developers were very

concerned about their business reputation, and would want to comply with REDA's guidelines.

35. Mr Abraham SHEK pointed out that apart from the monitoring by the media, other channels were available, such as through LegCo Members, for the buyers to lodge complaints against developers. He stressed that REDA would take appropriate follow-up actions on the complaints received as developers had high regard on their business reputation. He stressed that instead of reaping short-term profits, it was the objective of developers to maintain business sustainability of the real estate sector in the long run.

36. Mr Alan LEONG noted that according to REDA's guidelines promulgated in June 2005, REDA Secretariat would conduct random check on the compliance of developers with the guidelines. He enquired about the details of the compliance checks taken and the effectiveness of such checks in identifying misdeeds of developers.

37. In reply, PAS/HPL(PH) explained that under the existing monitoring mechanism, developers needed to provide REDA, HPLB, CC and EAA with copies of their sales brochures before their uncompleted residential properties were put up for sale. The relevant parties would check whether the necessary information had been included and requirements were met. Where omissions or irregularities were identified, REDA would ask the developer concerned to rectify the situation.

38. Mr Patrick LAU considered that announcing the names of the developers concerned would be an effective measure to deter misconduct of developers and protect the interests of buyers. In response, CE/CC said that for complaints involving serious misdeeds, CC would not rule out the possibility of announcing the names of the developers concerned. She added that there had been cases where CC had used its Consumer Legal Action Fund to assist complainants in taking legal action against the developers concerned. However, cases involving subjective judgement, such as complaints about the quality of the fittings and finishes of units had fallen short of buyers' expectation, might not warrant the disclosure of the names of the developers concerned.

39. Mr LEUNG Kwok-hung shared the suggestion and further opined that consideration should be given to providing CC with immunity from liability from developers in this regard.

*Follow-up action*

40. To facilitate members in understanding the situation of fraudulent behaviour in relation to property transactions, Mr LEUNG Kwok-hung requested the Administration to provide a detailed breakdown of the 116 charges made by the Police in respect of property fraud from 2003 to 2005 (Administration's reply to an oral question at the Council meeting on 26 April 2006 which was referred to in Appendix

IV of LC Paper No. CB(1)1857/05-06(04)). The breakdown should cover categories of fraud including release of false property transaction information, use of false instruments, etc. PS/HPL(H) undertook to liaise with the Police to see whether information was available in this regard. He added that the figures covered fraudulent behaviour of all offenders irrespective of whether they were property buyers or developers.

*(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(1)2057/05-06(01) on 25 July 2006.)*

**V. District Open Space adjoining Sau Mau Ping Public Housing Development**

(LC Paper No. CB(1)1857/05-06(05) — Information paper provided by the Administration)

Briefing by the Administration

41. The Assistant Director (Project)1 (Acting) of the Housing Department (AD(P)1/HD(Atg)) briefed members on the Administration's proposal to part-upgrade PWP Item No. 407RO (407RO), "District open spaces adjoining Kwai Chung Estate, Sau Mau Ping and Choi Wan Road Public Housing Development", to Category A for the proposed development of a district open space adjoining Sau Mau Ping public housing development (Sau Mau Ping DOS). He highlighted the salient points, as follows:

- (a) 407RO covered DOS and local open space projects at Kwai Chung, Sau Mau Ping and Choi Wan Road. In order to fast-track the implementation of the DOS projects, the Administration agreed that their design and construction were to be entrusted to HD. On completion, HD would hand over the facilities to the Leisure and Cultural Services Department (LCSD) for management and maintenance. In June 2006, works related to DOS adjoining Kwai Chung Estate had been upgraded to Category A as 413RO;
- (b) The capital cost of the Sau Mau Ping DOS project was estimated to be \$61.8 million in money-of-the-day prices. The annual recurrent expenditure was estimated to be about \$2 million. The Administration had already consulted the Housing Committee and the Culture, Recreation and Sports Committee of the Kwun Tong District Council (KTDC) on 3 and 22 November 2005 respectively. Both Committees supported the project and urged for its early implementation; and
- (c) Subject to members' endorsement, the Administration would seek funding approval for upgrading the part of 407RO on Sau Mau Ping DOS to Category A from the Public Works Sub-Committee (PWSC)

and Finance Committee (FC) of the Legislative Council (LegCo) in October and November 2006 respectively. Construction works of Sau Mau Ping DOS could start in March 2007 for completion by December 2008.

### Discussion

#### *Entrustment of projects to Housing Department*

42. Mr Patrick LAU enquired about the reasons for entrusting the three DOS projects under 407RO to HD. AD(P)1/HD(Atg) said that the arrangement was different from the normal arrangement where LCSD was responsible for implementing DOS projects. The Deputy Head of Civil Engineering Office (Port & Land) of the Civil Engineering and Development Department (DH of CEO(P&L)/CEDD) said that there were advantages in entrusting HD with the projects. Given that the DOS projects were adjacent to public housing estates, the arrangement could better ensure the facilities provided in the projects would meet the needs of tenants, and the design would match with the surrounding environment. Moreover, as the project sites were located in close proximity to HD's building sites, the arrangement would accelerate implementation of the projects.

43. Mr Patrick LAU opined that a consistent approach should be adopted in the implementation of DOS projects adjoining public housing estates. The Assistant Director (Leisure Services)1, LCSD (AD(LS)1/LCSD) explained that in general Architectural Services Department was responsible for the design and construction of LCSD's works projects. In the case of Sau Mau Ping DOS, in view that the project site was formerly part of Sau Mau Ping Estate covered in the Sau Mau Ping redevelopment programme, entrusting Sau Mau Ping DOS project to HD would better cater to residents' needs and ensure smooth implementation of the project. Moreover, as Sau Mau Ping DOS project was not an outstanding project of the former Municipal Councils that enjoyed priority in development, if the project was taken forward as other works projects of LCSD, it would be subject to normal procedures and would take longer time to deliver. The present arrangement could therefore help expedite implementation of the project.

44. While agreeing that the present arrangement could help expedite delivery of the Sau Mau Ping DOS project, as the facilities would be under LCSD's management, the Chairman considered that LCSD should play a key role in co-ordinating the design and construction of the project as well as securing the necessary funding. He opined that LCSD should take the lead in all leisure and recreational projects, and urged the Administration to observe the proper procedures in future. Mr Patrick LAU echoed the views and suggested that the Administration should work out arrangements to facilitate delivery of LCSD projects at sites belonging to the Housing Authority (HA). AD(P)1/HD(Atg) took note of members' views and agreed to consider them with relevant departments for future DOS projects of similar nature.

*Delivery of Sau Mau Ping District Open Space*

45. Miss CHAN Yuen-han highlighted the local residents' call for early construction of Sau Mau Ping DOS, of which discussion had taken years. She enquired why the Administration had not put forward the project for consultation of the Panel earlier so that funding approval from PWSC and FC could be sought within the current legislative session to facilitate early commencement of the project. In reply, AD(P)1/HD(Atg) said that given the large scale of the project involving an estimated cost of \$61.8 million, substantial preparatory work including drawing up of designs and preparing tender documents was involved. According to HD's estimate, tender for the project would be invited in November 2006. Even so, HD staff had to work very hard to meet this deadline.

46. Miss CHAN Yuen-han was unconvinced of the Administration's explanation and reiterated that both LegCo Members and local residents had called for early delivery of Sau Mau Ping DOS project. She further questioned why the project could not proceed at the same pace as Kwai Chung DOS project which had been upgraded to Category A in June 2006. She was concerned whether the delay was due to the lack of co-ordination among relevant departments. Sharing the concern, the Chairman asked why the Administration had taken seven months to submit the proposal to the Panel while consultation with KTDC had already completed in November 2005.

47. In reply, AD(P)1/HD(Atg) pointed out that the decision to entrust the project to HD was only made in August 2005. By conducting consultation with KTDC in November 2005, the Administration had indeed taken effort to shorten much of the required time for capital works projects by putting together stages of preliminary designs and consultation with District Councils. Moreover, it was necessary for HD to arrange manpower resources to implement the three projects under 407RO through internal deployment. Despite the tight manpower situation in HD, relevant staff had been able to deliver the extra tasks without causing delay in any of the stages in the projects.

48. Highlighting residents' call for early delivery of Sau Mau Ping DOS project, Mrs Selina CHOW questioned HD's plan to commence the project in March 2007. In response, AD(P)1/HD(Atg) pointed out that according to normal procedures for works projects, tender for Sau Mau Ping DOS project would be invited in November 2006. Submission of tenders would take some time and vetting of tenders would take about two to three months. Hence, the project could be commenced by March 2007. He however agreed to examine whether any procedures could be conducted in parallel to further fast-track the project.

Admin

49. Mrs Selina CHOW reiterated the aspiration of local residents for early commissioning of Sau Mau Ping DOS project, and urged the Administration to step up efforts in expediting the delivery. While noting that approval of PWSC and FC was required for the implementation of the project, she opined that the Administration

should start preparatory work for the project during LegCo's summer recess so that the project could be submitted to PWSC and FC in the 2006-07 legislative session as early as possible. Pointing out that it would take a much shorter time frame to complete similar projects in the private sector, Mrs CHOW also considered it necessary for the Administration to enhance efficiency in the implementation of capital works projects. In this connection, the Chairman concurred that preparation of the relevant tender documents could proceed during the summer recess. In reply, AD(P)1/HD(Atg) stressed the importance of observing internal procedures and seeking approval from relevant committee(s) of HA for the project. Nonetheless, he undertook to expedite the project where possible.

Admin

50. In concluding the discussion, the Chairman said that the Panel supported Sau Mau Ping DOS project and urged the Administration to expedite its delivery.

## **VI. Any other business**

51. As this was the last meeting of the Panel in the 2005-06 legislative session, on behalf of the Panel, the Chairman thanked the Administration for its co-operation during the past year, and looked forward to closer communication with it to better serve the public in future.

52. There being no other business, the meeting ended at 4:25 pm.