

立法會
Legislative Council

LC Paper No. CB(1)2130/06-07
(These minutes have been seen
by the Administration)

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**Bills Committee on
Housing (Amendment) Bill 2007**

**Minutes of ninth meeting on
Thursday, 17 May 2007, at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP (Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon Fred LI Wah-ming, JP
Hon CHAN Yuen-han, JP
Hon CHAN Kam-lam, SBS, JP
Hon LEUNG Yiu-chung
Hon Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, SBS, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Dr Hon Joseph LEE Kok-long, JP
Hon Alan LEONG Kah-kit, SC
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** : Hon WONG Yung-kan, JP
Hon LI Kwok-ying, MH, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon LEUNG Kwok-hung
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP

Public Officers attending : Miss Mary CHOW Shuk-ching, JP
Deputy Secretary for Housing, Planning and Lands
(Housing)

Ms Cora HO
Assistant Director (Strategic Planning)
Housing Department

Mr Raymond WU
Senior Administrative Officer (Strategic Planning) 2
Housing Department

Mr Francis YIU
Senior Statistician
Housing Department

Mr Lawrence S Y PENG
Senior Assistant Law Draftsman
Department of Justice

Miss Emma WONG
Government Counsel
Department of Justice

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

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Ms Debbie YAU
Senior Council Secretary (1)1

Action

- I Meeting with the Administration**
(LC Paper No. CB(1)1580/06-07(01) -- List of follow-up actions arising from the discussion on 10 May 2007 prepared by the Legislative Council Secretariat

LC Paper No. CB(1)1580/06-07(02) -- The Administration's responses to Members' concerns raised at the meeting on 4 May 2007 with draft Committee Stage amendments proposed by the Administration

LC Paper No. CB(1)1580/06-07(03) -- Summary of views/concerns raised by the Bills Committee prepared by the Legislative Council Secretariat (as at 15 May 2007)

LC Paper No. CB(1)1580/06-07(04) -- Summary of deputations' views expressed at the meetings on 8 March and 10 May 2007 and the Administration's response)

The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration

Rate of adjustment under the new rent adjustment mechanism

2. The proposed section 16A(4) provided that variation in public rental housing (PRH) rents must follow the changes in the proposed income index between the first and the second periods of a rent review cycle. While some members supported the provision as it provided certainty, some members had raised concern about the provision restricting the Housing Authority (HA)'s power in determining the rate of rent adjustment, in particular to address financial problem of tenants at times of economic downturn. The Administration was requested to consider the following views/ suggestions and provide written responses to the Bills Committee:

- (a) To examine the need and feasibility of providing HA with the flexibility in determining the rate of rent adjustment with reference to the changes in the proposed income index; and
- (b) If it was considered necessary to provide HA with the discretionary power in (a) above, to consider how HA should exercise such power, and whether any parameters should be prescribed to ensure HA would exercise the power in a transparent and fair manner.

Rent review cycle

(A) Frequency of rent review

3. Members considered the purposes of Administration's proposed Committee Stage amendment (CSA) to add the new section 16A(1)(b) (LC Paper No. CB(1)1580/06-07(02)) unclear. The Administration was requested to consider the following views/suggestions and provided written responses to the Bills Committee:

- (a) The Administration should clarify the policy intent of the new paragraph (b) of section 16A(1) and improve the drafting to enhance clarity;
- (b) In connection with item (a) above, the Administration might consider recasting the new paragraph (b) as "(The Authority) might, from time to time, review the relevant rent for the purpose of";
- (c) As the new paragraph (b) of section 16A(1) did not require HA to review PRH rents other than as provided by section 16A(1)(a), i.e. every two years, the provision could prevent HA from conducting more frequent rent reviews, in particular at times of economic difficulties with a view to addressing financial hardship of tenants; and
- (d) Given that HA had implicit power under the Housing Ordinance (Cap. 283) to review PRH rent, and hence would not be restricted from conducting more frequent rent reviews, to avoid possible misunderstanding by and confusion to tenants, the Administration should consider deleting the new paragraph (b).

(B) Frequency of rent variation

4. There was concern that section 16A(5), which provided that HA shall not vary PRH rent within two years after the commencement of the Amendment Ordinance or after the preceding rent variation, might restrict HA's power to vary rents to address financial difficulties of tenants. The Administration was requested to consider whether HA should be given flexibility in variation of rent to cater for unforeseeable circumstances.

Application of the new rent adjustment mechanism to "well-off" tenants

5. While members noted the Administration's view that there was no provision under the existing section 16(1C) on the calculation of rents paid by "well-off" tenants, in order to allay the concerns of these tenants, the Administration was requested to give a statement during the resumption of the Second Reading debate of the Bill that under HA's existing Housing Subsidy Policy and Policy on Safeguarding Rational Allocation of Public Housing Resources, the level of rent payable by these tenants was calculated with reference to the relevant rent payable by other PRH tenants.

Compilation of the income index

6. Notwithstanding that the Administration's draft CSA to proposed section 16A(8)(b) specified that HA shall appoint a tertiary institution or a public body to compute the income index, members noted that HA could determine how to compile the index. While the Administration was of the view that given the technical complexity involved it was both impractical and undesirable to spell out the details of data collection and computing methodology of the income index in the law, members had raised concern about the lack of statutory safeguard against HA's power in determining the details for compiling the index including the coverage of the index, survey method and sample size. The Administration was requested to consider the following views/suggestions and provide written responses to the Bills Committee:

- (a) To explore the feasibility of prescribing the details for compiling the income index, or setting out important parameters in the Bill; and
- (b) To put in place measures to prevent HA's undue influence on the computation agent during compilation of the income index. A possible option was to delete "in accordance with a determination by the Authority on how to compute the index" in proposed section 16A(8)(b).

Date of next meeting

7. The Chairman reminded members that the next meeting had been scheduled for Friday, 25 May 2007 at 11:00 am to consider outstanding issues and draft CSAs proposed by the Administration. The Chairman also invited members who intended to propose CSAs to the Bill to forward their draft CSAs to the Secretariat as early as possible for consideration by the Bills Committee at the next meeting.

III Any other business

8. There being no other business, the meeting ended at 1:00 pm.

Council Business Division 1
Legislative Council Secretariat
17 July 2007

**Proceedings of ninth meeting of
Bills Committee on
Housing (Amendment) Bill 2007
on Thursday, 17 May 2007, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000248 – 001115	Chairman	Opening remarks by the Chairman	
001116 – 001846	Chairman Administration	<u>Discussion on outstanding issues</u> (LC Paper Nos. CB(1)1580/06-07(02) & (03)) Briefing by the Administration	
001847 – 002155	Chairman Ms Emily LAU Administration	(a) Ms Emily LAU's reiteration for a statutory rent increase cap and enquiry about the feasibility of prescribing the details of the Housing Authority (HA)'s Rent Assistance Scheme (RAS) in law (b) The Administration's response as follows: (i) Under the new mechanism, the rate of any increase in PRH rent could not exceed the rate of increase in PRH tenants' household income as reflected in the income index; and (ii) HA's RAS had the effect of placing a rent level cap at individual household level. However, providing details of RAS in the statute would reduce HA's flexibility in making timely improvements to RAS as and when circumstances warranted. The eligibility criteria for RAS had been relaxed twice since 2002.	
002156 – 002817	Chairman Mr Alan LEONG Administration	(a) Mr Alan LEONG's enquiry about the rationale for not prescribing the rent-to-income ratios (RIRs) under RAS in law (b) The Administration's explanation as follows: (i) Providing the details of RAS in law would limit the flexibility of HA to introduce timely improvement to the Scheme as amendments would be subject to legislative process; and (ii) There were seven different income thresholds under which PRH households could apply for RAS. It was impracticable to provide the details of RAS in the law. However, HA would consider relaxing RAS and the Administration would consider covering the improvements to RAS during the resumption of the Second Reading debate on the Bill.	

Time marker	Speaker	Subject(s)	Action required
002818 – 003201	Chairman Mr LEE Cheuk-yan Assistant Legal Adviser 1 (ALA 1) Administration	<p>(a) Mr LEE Cheuk-yan's enquiry about the feasibility of providing a rent increase cap to restrict HA's power in increasing PRH rents in accordance with the rate of increase in the income index while requiring HA to follow the rate of decrease in the income index in reducing PRH rents</p> <p>(b) The Administration's response that variation in PRH rents should follow the changes in the income index between the two periods in a rent review cycle. To enable the new rent adjustment mechanism to operate fairly, any modification to the new mechanism should apply to both upward and downward adjustment in rents</p>	
003202 – 003549	Chairman Mr Albert CHAN Administration	<p>(a) Mr Albert CHAN's urge for prescribing an overall RIR (median or mean) in the Bill for all PRH tenants</p> <p>(b) The Administration's response as follows:</p> <p>(i) The median RIR (MRIR) was subject to distortion by a number of extraneous factors and thus was not a suitable indicator for measuring affordability of individual PRH tenants; and</p> <p>(ii) It was impracticable to provide the details of RAS in law.</p>	
003550 – 004057	Chairman Mr LEUNG Yiu-chung ALA1 Administration	<p>(a) Mr LEUNG Yiu-chung's enquiry about the amount of variation in the relevant rent which would be considered insignificant as provided in the proposed section 16A(6) of the Bill</p> <p>(b) The Administration's response that it was considering a Committee Stage amendment (CSA) to set out in an exact percentage figure the amount of rent variation to be regarded as insignificant under the proposed section 16A(6)</p>	
004058 – 004651	Chairman Mr Frederick FUNG Administration	<p>(a) Mr Frederick FUNG's views/enquiry as follows:</p> <p>(i) The proposed income index was also an average figure albeit having been adjusted by the weighting of the household size distribution;</p> <p>(ii) His proposal of setting a rent level cap with reference to the "weighted average" ratios of rent and income in each household size group was feasible; and</p> <p>(iii) Difference of providing a rent level cap in law or in an undertaking upon the resumption of Second Reading debate on the Bill.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) The Administration's response that</p> <p>(i) RIR was the expression of rent as a percentage of household income and MRIR represented the median value of RIRs of all PRH households. They were different from the proposed income index which aimed at keeping track of the pure income changes of PRH households; and</p> <p>(ii) The undertaking to be made was related to the improvements to RAS.</p>	
004652 – 005128	Chairman Mr CHAN Kam-lam Administration	<p>(a) Mr CHAN Kam-lam's views as follows:</p> <p>(i) The suggestion of providing HA with the flexibility to vary PRH rents not in accordance with the proposed income index might undermine the credibility of the new rent adjustment mechanism; and</p> <p>(ii) It was necessary to provide a rent level cap in terms of RIR for individual PRH households.</p> <p>(b) The Administration's response that there were different indicators measuring individual PRH tenants' affordability under the RAS. Those tenants who had financial difficulties might apply for RAS</p>	
005129 – 010113	Chairman Mr LEE Cheuk-yan Administration Mr LEUNG Yiu-chung Ms CHAN Yuen-han Mr Ronny TONG Mr CHAN Kam-lam	<p>(a) Mr LEE Cheuk-yan's suggestion of providing HA with the flexibility in determining the rate of rent adjustment with reference to the changes in the proposed income index with a view to addressing financial problem of tenants at times of economic downturn</p> <p>(b) Members' support or otherwise to the suggestion in (a) above, and views on how HA should exercise the discretionary power if provided</p> <p>(c) The Administration's response as follows:</p> <p>(i) To address financial hardship faced by PRH tenants, HA had granted a one-month rent remission for all PRH tenants in December 2001 which was equivalent to a 8% reduction in PRH rents for that year; and</p> <p>(ii) A shorter rent review cycle of two years would enable a more moderate rent adjustment in each rent review and HA to react more quickly to changes in socio-economic circumstances.</p> <p>(d) Mr CHAN Kam-lam's reservation on the proposal</p>	The Administration to take follow-up action under para 2 of the minutes

Time marker	Speaker	Subject(s)	Action required
		<p>additional rent paid by "well-off" tenants with reference to the relevant rent paid by other PRH tenants and request for the Administration to give an undertaking during the resumption of the Second Reading debate on the Bill that such additional rent was calculated with reference to the relevant rent</p>	<p>to take follow-up under para 5 of the minutes</p>
014350 – 014441	Chairman Administration	<p><u>Clause 4 – proposed section 16A(4) and 16A(6)</u></p> <p>(a) Briefing by the Administration</p> <p>(b) Members did not raise any query</p>	
014442 – 015317	Chairman Administration Mr WONG Kwok-hing Mr Frederick FUNG Ms Emily LAU ALA1 Mr LEUNG Yiu-chung	<p><u>Clause 4 – proposed section 16A(5)</u></p> <p>(a) Briefing by the Administration</p> <p>(b) The need to provide HA with the flexibility to vary rent to cater for unforeseeable circumstances and address financial difficulties of tenants</p> <p>(c) The Administration's response that HA might remit PRH rents under section 17 of HO</p>	<p>The Administration to take follow-up action under para 4 of the minutes</p>
015318 – 021437	Chairman Administration Mr WONG Kwok-hing Mr LEUNG Yiu-chung Ms Emily LAU ALA1 Mr Frederick FUNG	<p><u>Clause 4 – proposed section 16A(8)</u></p> <p>(a) Briefing by the Administration</p> <p>(b) Members' concern about the lack of statutory safeguard against HA's power in determining the computation of the income index</p> <p>(c) The Administration's explanation that HA would only decide how to compile the index including the coverage of the index, survey method and sample size, according to the framework provided in the Bill. Given the technical complexity involved, it was both impractical and undesirable to spell out the details of data collection and computing methodology of the income index in law</p> <p>(d) Members' request for the Administration to consider providing the details for compiling the income index, or setting out important parameters in the Bill, and putting in place measures to prevent HA's undue influence on the computation agent during compilation of the income index</p>	<p>The Administration to take follow-up under para 6 of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
021438 – 021505	Chairman Administration	(a) Date of next meeting and matters for discussion (b) Chairman's invitation for members to provide their draft proposed CSAs, if any, to the Bills Committee for consideration at the next meeting	

Council Business Division 1
Legislative Council Secretariat
17 July 2007