

立法會
Legislative Council

LC Paper No. CB(1)100/07-08
(These minutes have been seen
by the Administration)

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Panel on Housing

Minutes of meeting
held on Tuesday, 17 July 2007, at 4:30 pm
in the Chamber of the Legislative Council Building

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

Member attending : Dr Hon KWOK Ka-ki

Members absent : Hon LI Kwok-ying, MH, JP (Deputy Chairman)
Hon Fred LI Wah-ming, JP
Hon LEUNG Yiu-chung

**Public officers
attending**

: Agenda Item III

Miss Mary CHOW Shuk-ching, JP
Acting Permanent Secretary for Transport and Housing
(Housing)

Mr K K YEUNG
Principal Assistant Secretary (Private Housing)
Transport and Housing Bureau

Agenda Item IV

Ms Eva CHENG, JP
Secretary for Transport and Housing

Miss Mary CHOW Shuk-ching, JP
Acting Permanent Secretary for Transport and Housing
(Housing)

Mr LAU Kai-hung, JP
Deputy Director (Estate Management)
Housing Department

Ms Ada FUNG Yin-suen, JP
Deputy Director (Development & Construction)
Housing Department

**Attendance by
invitation**

: Agenda Item III

The Hong Kong Institute of Surveyors

Mr Raymond CHAN
President

Ms Serena LAU
Chairman, General Practice Division

The Real Estate Developers Association of Hong Kong

Mr Stewart LEUNG
Vice Chairman
Executive Committee

Mr Louis LOONG
Secretary General

Mr Eric CHOW
Representative

Mr Tony TSE
Representative

Mr Emmanuel YIP
Representative

Mr Wilson WONG
Representative

Mr Wilson CHAN
Representative

Mr Derek CHUNG
Representative

Mr Ricky WONG
Representative

Consumer Council

Ms Connie LAU
Chief Executive

Ms Vera TAM
Chief Research & Trade Practices Officer

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 Anthony CHU
Council Secretary (1)2

Ms Michelle NIEN
Legislative Assistant (1)9

Action

I Confirmation of minutes

(LC Paper No. CB(1)2079/06-07 -- Minutes of meeting on 2 April 2007)

The minutes of the meeting held on 2 April 2007 were confirmed.

II Information papers issued since last meeting

(LC Paper No. CB(1)1846/06-07(01) -- Land Registry Statistics

LC Paper No. CB(1)2068/06-07(01) -- Land Registry Statistics)

2. Members noted that the above information papers had been issued since the last regular meeting held on 4 June 2007.

III Disclosure of saleable area in sales description for residential properties

Papers for this meeting

(LC Paper No. CB(1)2084/06-07(01) -- Submission from the Hong Kong Institute of Surveyors

(LC Paper No. CB(1)2084/06-07(02) -- Information paper provided by the Administration

LC Paper No. CB(1)2084/06-07(03) -- Letter dated 9 July 2007 from the Chairman to the Administration

LC Paper No. CB(1)2135/06-07(01) -- The Administration's reply to the letter dated 9 July 2007 from the Chairman to the Administration (LC Paper No. CB(1)2084/06-07(03))

Papers issued previously

(LC Paper No. CB(1)394/06-07(06) -- Background brief on sales arrangements for uncompleted first-hand residential properties prepared by the Legislative Council Secretariat

LC Paper No. CB(1)1221/06-07(03) -- Information paper provided by the Administration)

3. Members noted The Real Estate Developers Association (REDA)'s response to question 5 of the letter dated 9 July 2007 from the Chairman to the Administration on this agenda item (LC Paper No. CB(1)2084/06-07(03)). REDA's response was tabled at the meeting.

(Post-meeting note: REDA's response was subsequently circulated to members vide LC Paper No. CB(1)2158/06-07(01) on 18 July 2007.)

Meeting with the Administration and deputations

The Administration

4. The Acting Permanent Secretary for Transport and Housing (Housing) (Atg PSH) updated members on the latest developments in enhancing the transparency of saleable area (SA) disclosure in sales descriptions for residential properties since the Panel last discussed the subject on 2 April 2007. She highlighted the major developments as follows:

- (a) In order to increase buyers' awareness of SA information, the Administration had urged REDA to include in its guidelines (REDA's guidelines) issued for compliance by its members requirements to improve the presentation of SA in sales brochures and price lists. REDA had responded positively and asked its members to implement the following measures –
 - (i) highlight information on SA in sales brochures, e.g., by using larger font size; and
 - (ii) disclose SA in price lists, including listing out separately the area of balcony, bay window, roof, flat roof, utility platform, etc.;
- (b) In light of recent public concerns about floor height information, the Administration had also requested REDA to improve the clarity of floor height information disclosed in sales descriptions;
- (c) In response to members' views, the Administration had worked with the Consumer Council (CC) and the Estate Agents Authority (EAA)

the necessary updates to the Notes to Purchasers of First-hand Residential Properties (the Notes) to promote the need to pay attention to information on SA, as well as the channels of public comments or complaints by listing out the hotlines and fax numbers of CC, EAA, REDA and the Transport and Housing Bureau; and

- (d) Upon completion of the review by the Hong Kong Institute of Surveyors (HKIS) on its Code of Measuring Practice (the Code) presently still underway, the Administration would examine the implications of the revised Code, particularly on secondary market properties, and consider the need to review the relevant provisions of the Consent Scheme, as well as suggest to REDA to revise its guidelines as necessary.

Hong Kong Institute of Surveyors

5. Mr Raymond CHAN, President of HKIS, briefed members on HKIS's proposal version 5 on SA (HKIS's proposal). Members noted that HKIS intended to replace the sections in the Code covering SA and "Ancillary Accommodation" with "Core Area" (CA) and "Ancillary Area" (AA) in order to remove grey areas surrounding SA that were subject to different interpretations. The revised Code aimed to provide a fair, transparent and user-friendly platform to allow the public easy access to essential information on SA. Mr CHAN then explained the details of CA and AA as follows:

- (a) CA comprised roofed area with full head-room of not less than two metres contained within the enclosing walls, and area that could be used for full normal occupation without any restrictions on use; and
- (b) AA comprised seven components as listed in the relevant table in HKIS's submission (LC Paper No. CB(1)2084/06-07(01)), which should be separately stated.

The Real Estate Developers Association of Hong Kong

6. At the Chairman's invitation, Mr Stewart LEUNG, Vice Chairman of the Executive Committee of REDA, pointed out that while REDA appreciated HKIS's efforts in enhancing the transparency of SA, it should be noted that SA had been in use for more than twenty years. There was concern that HKIS's proposal might mislead the public and have impact on the valuation of the some 1.3 million properties in the secondary market, many of which were under mortgage. In particular, as reported by the press, HKIS was proposing that the price for AA should be lower than that for CA. He also questioned the need for HKIS's proposal, pointing out that after a long period of improvement, REDA could already enhance transparency in the property market, particularly in SA information. Moreover, the floor area of a unit, including its various components, was essentially calculated by architects, not developers. REDA's guidelines also required its members to list out clearly in sales brochures the Gross Floor Area (GFA) as well as

SA of a flat, including the respective areas of all the components and other features that made up of GFA, so that consumers would know what they were buying and could take out or retain the areas of those features when calculating the per square foot price or the "efficiency ratio" of a unit. In fact, nearly all developers would take into account 80% of the common areas in the calculation of sales prices. Developers, however, knew the market better than any party and as such the flat prices so calculated by them could best reflect the market. Given the above significant implications of HKIS's proposal and the present situation, there was a need to further examine HKIS's proposal. REDA had already conveyed its concerns about the proposal to HKIS and was still awaiting the latter's reply. Notwithstanding, REDA remained open-minded on the subject and was willing to discuss the proposal further with concerned parties. It would also co-operate once a decision in this regard was made.

Estate Agents Authority

7. Upon invitation by the Chairman, Ms Sandy CHAN, Chief Executive Officer of EAA, pointed out that should there be a consensus on HKIS's proposal, EAA was prepared to issue new practice circulars to estate agents to facilitate their understanding of the agreed measurement method and to highlight the need of compliance. In the meantime, EAA had already amended its Code of Ethics reminding estate agents that they needed to base on facts and information provided by developers when explaining the floor area and the price of a property to prospective buyers. As regards enforcement actions on estate agents, EAA had geared up its surveillance efforts. A total of 367 actions were taken at first sale sites in the first half of 2007, and so far no estate agents had been identified with misconduct in relation to provision of sales information. During the same period, EAA had received from members of the public eight complaints relating to the sales brochure and price list, which were still under investigation.

Consumer Council

8. At the Chairman's invitation, Ms Connie LAU, Chief Executive of CC, said that CC supported the provision of a clear and uniform definition of the floor area to enhance market transparency, and agreed that a standardized method of measuring floor area adopted by all relevant parties would help enhance consistency and accuracy of sales descriptions and enable consumers to make informed decisions in the purchase of properties. As such, CC was supportive of HKIS's proposal, which in CC's view could enable property purchasers to clearly understand the efficiency ratio of a unit and hence facilitate comparison of the prices of different units. CC was also of the view that the provisions applicable to uncompleted first-hand residential properties under the Consent Scheme should be reviewed. In order to reflect latest changes in building design, the definition of SA should be revised, and specific areas requiring disclosure should be clarified. Furthermore, the standardized measuring method should also apply to uncompleted first-hand residential properties under the Non-Consent Scheme. As regards arrangements for implementing HKIS's proposal, the Administration should work out the relevant timetable with concerned parties if HKIS's proposal was accepted.

Ms LAU further added that CC welcomed the recent improvement to clarify floor height information disclosed in sales descriptions. She however opined that consumers in fact wanted to know the actual "floor-to-ceiling" height of a flat and that the information should be provided in sales brochures. Given the importance of consumer education in protecting the interests of property buyers, CC would continue working with relevant parties to step up efforts in this area.

Discussion

The proposal of Hong Kong Institute of Surveyors

9. Dr KWOK Ka-ki thanked the deputations for their views and expressed support for HKIS's proposal. As purchase of residential properties was the biggest investment in people's lives, he highlighted the importance of ensuring adequate protection for the interests of property buyers by enabling them to know the actual floor areas of the units they intended to purchase. He further expressed regrets that despite years of efforts by CC and HKIS, little progress in enhancing transparency in information in this area had been made. As there were inherent conflicts of interests among stakeholders, it was undesirable that the relevant trades were left to sort out the problems concerned themselves. Pointing out that property buyers in overseas markets were provided with clear information on floor area of properties, he found it undesirable that REDA should stick to the use of SA to present the floor area of a unit. He opined that although SA had been used for over twenty years, the information was misleading and hence should be replaced, especially as consumers had no choice but to buy private flats after the cessation of the Home Ownership Scheme. Pointing out that Government had the responsibility to ensure the provision of adequate and accurate sales information to flat purchasers, Dr KWOK expressed regrets that the Secretary for Transport and Housing had not attended discussion on this agenda item. He urged the Administration to take actions to address the many problems associated with sales brochures for residential properties to prevent exploitation by developers. In particular, he opined that in reviewing sales brochures, the Lands Department should take actions against developers who had included in the calculation of SA such green features as balconies, for which exemption from calculation of GFA had been granted to encourage the incorporation of such features in building development. He considered the above practice of developers to "inflate" floor area of units for making extra profits deplorable.

10. In response, Atg PSH pointed out that a clear definition of SA was prescribed in the Consent Scheme and the definition was adopted in REDA's guidelines for compliance by its members. To enhance protection for property buyers, it was necessary to strengthen transparency of SA of each individual unit and to educate consumers on how to differentiate between SA and GFA. Relevant information had been clearly listed in the sales brochures and the price lists as required in REDA's guidelines. SA was also clearly stated in the Agreement for Sale and Purchase (ASP). Such information could enable property buyers to know clearly the floor areas of individual units. She further pointed out that the full thickness of external walls would be included in the calculation of CA as in

HKIS's proposal. CA generally referred to the area contained within the enclosing walls of the unit measured up to the exterior face of an external wall or the centre line of a separating wall between adjoining units, as the case might be.

11. Mr Raymond CHAN of HKIS confirmed the Administration's comment on CA, and explained that such a method of measurement was necessary to ensure building quality because external walls and internal partitions were included in the approved plot ratio (PR) of a site and hence taken into consideration in calculating the land premium concerned. If internal partitions and external walls were excluded from the measurement of SA/CA of the flats and hence also from the calculation of their prices, there might be the loophole that developers might, for the sake of generating more profits, be tempted to build thin walls for flats. As a result, maintenance problems might arise under Hong Kong's weather conditions.

12. Commenting that HKIS's proposal would further complicate things, Mr Stewart LEUNG of REDA urged Dr KWOK to take note of the improvements made by developers in enhancing the provision of sales information in recent years. He emphasized that there was at present high transparency in market information that no cheating by any party could have happened. He added that REDA had also been co-operating with CC in improving the provision of sales information, and had been making efforts to handle all relevant complaints satisfactorily. Moreover, the floor area of a unit, including its various components, was calculated by architects and surveyors, not developers. The calculation method was certified so that should any problem arise, the property buyer could take legal action as appropriate. As SA of a flat included only areas exclusively for the use of the owner, disclosure of SA of each individual unit in the sales brochures concerned would already suffice to enable buyers to clearly understand what they were buying.

13. Mr Abraham SHEK raised protest against Dr KWOK Ka-ki's remarks above that developers had resorted to "crooked means" to cheat property buyers. He pointed out that HKIS's proposal had not been well-thought out. Nor had HKIS discussed the proposal with the Hong Kong Institute of Architects (HKIA). He expressed concern about the likely adverse implications of HKIS's proposal on the society, in particular on the second-hand property market. He further commented that it was unnecessary for HKIS to review the SA of flats. Since developers were required to disclose clearly GFA and SA information in sales brochures, a purchaser was already in full comprehension of the layout and the floor area of a unit before purchasing the unit.

14. In response, Mr Raymond CHAN of HKIS explained that HKIS was only briefing members on the latest version of HKIS's proposal upon invitation by the Panel. HKIS was discussing with various stakeholders and would consult relevant professions on the proposal. Views and comments received would be given proper consideration. Ms Serena LAU, Chairman, General Practice Division of HKIS, supplemented that while there was room for improving the calculation of SA, surveying professionals had a clear understanding about SA and had adopted established practices in its calculation. HKIS's proposal only aimed at simplifying

the calculation of SA to enable flat buyers to have a better understanding of the area of flats before making the purchase decision. HKIS was aware of the need to ensure smooth transition in implementing the proposal and avoid confusion that might arise, such as the concepts of CA and AA might not tally with the terms relating to floor area adopted in the data-base on secondary market properties maintained by the Rating and Valuation Department for use by the public. HKIS was also mindful of the need to co-ordinate with relevant Government departments in ensuring consistency of the technical details involved. She further clarified that the price of AA might not necessarily be lower than that of CA. In the event that there was no public support for HKIS's proposal, HKIS might not proceed further.

15. Mr Albert HO considered it undesirable and unfair for Mr Abraham SHEK to criticize HKIS in taking the initiative to help improve the calculation of floor area for residential properties. He then stressed the need for reaching a consensus among parties concerned on a standardized method for calculating floor area in consideration that the sale of uncompleted residential flats was different from that of second-hand properties where actual house inspection was possible. Enhanced protection for buyers in relation to all sales information was thus warranted, especially as property prices in Hong Kong were on the rise.

16. In recognition that REDA and HKIS had yet to reach a consensus on HKIS's proposal, Mr CHAN Kam-lam asked how HKIS's proposal could provide property buyers with a clearer picture of the floor area of the unit he was buying, and whether information on common areas and auxiliary facilities the buyer was entitled to use, such as the swimming pool, the club house, etc., would be covered. Highlighting the likely impact of HKIS's proposal pushing up the per square foot price of properties, Mr CHAN opined that HKIS should provide more justifications on the merits of its proposal.

17. In response, Mr Raymond CHAN of HKIS clarified that as CA of a unit should be capable of full normal occupation, it would only comprise the floor area exclusively allocated to that unit, and would exclude common areas such as staircases, lift shafts, lobbies and communal toilets, etc., which should instead be reflected in GFA. HKIS had planned to review the definition of GFA at a later stage.

The need to review Gross Floor Area

18. Pointing out that the greatest concern of property buyers was related to the "usable area" of a unit, Mr CHAN Kam-lam opined that it might not be necessary to undertake a review of GFA. Indeed, the disclosure of GFA in sales descriptions could confuse property buyers. Mr CHAN then highlighted the need for relevant parties to work out a reasonable way for including common areas in the calculation of SA. As the price of a flat would also be affected by other factors like the floor level and orientation, there was a need for more detailed study before agreeing on the calculation of floor area for a flat.

19. In response, Mr Raymond CHAN of HKIS explained that CA had been developed based on the definition of SA in the existing Code by adding clarifications and ensuring consistency with relevant calculation practices of floor area as appropriate. Since common areas would be excluded from the calculation of CA but some common areas, such as club house, were indeed for the use and enjoyment of residents, there might be a need to specify the GFA of a unit in the sales brochure where such areas were included in the calculation of GFA to ensure that all details concerning a unit were complete. He further explained that there was a need to review GFA because the apportionment of common areas and the relevant method involved complicated issues that had to be resolved with care.

20. In this regard, Mr Stewart LEUNG of REDA pointed out that architects had long been responsible for calculating the GFA of a unit, including its various components, by apportioning the common areas to units on a pro rata basis. He urged that HKIS should fully communicate with other relevant professional bodies including HKIA before proposing new calculation methods for SA and GFA.

21. Mr James TO remarked that HKIA and HKIS should exchange views on the calculation of GFA. Referring to REDA's definition of GFA, which covered the sum of SA, the apportioned share of common areas and areas for the exclusive use of the purchaser, he asked about the advantages of using CA over GFA, particularly in enabling the purchaser to have a clear understanding of the floor area of the unit.

22. In reply, Mr Raymond CHAN of HKIS clarified that calculation of both CA and AA as proposed by HKIS did not include common areas. He added that while GFA of a unit would cover the above mentioned three components, it was necessary to examine in detail and achieve a consensus on the method for apportioning common areas. In response to Mr James TO's further enquiry, he confirmed that at present there were no agreed definition on GFA, not even among architects. He hoped that HKIS's review of GFA and proposal, if any, could bring about improvement in this area.

Concerns relating to floor height information

23. Referring to recent public concerns about malpractices engaged by some developers in the disclosure of floor area information, Mr WONG Kwok-hing indicated agreement with CC's view on the need for adopting a standardized method for measuring floor space and improving the clarity of floor height information provided in sales descriptions. He further highlighted a complaint being handled by CC, in which the promised sea view of flats was blocked by another development by the same developer because of differences in the floor heights of the two developments concerned. He opined that the developer had misled the property buyers concerned and urged the Administration and REDA to look into the case to plug the loophole so exposed.

24. In response, Atg PSH said that information on floor height was provided in sales brochures, which under the prevailing practices included the thickness of the floor slab. She pointed out that recent disputes concerning floor height might

have arisen from different interpretation of the floor height, which as perceived by the public might be the "floor-to-ceiling" height. In the light of public concern, the Administration had already requested REDA to improve the clarity of floor height information disclosed in sales descriptions, and would liaise with it on possible improvement measures. Ms Connie LAU of CC added that "floor height", as defined in the building sector, included the thickness of the floor slab. Since consumers would not be in a position to know the thickness of the floor slab, the actual height of the flat from floor to ceiling should be included in sales descriptions so as to avoid possible disputes.

25. Mr Stewart LEUNG of REDA explained that it was the established practice of the Buildings Department to measure storey heights between structural components regardless of finishes such as plastering and flooring. As such, the thickness of both the ceiling and floor slab was taken into account in the measurement. He further remarked that there was difficulty in giving the actual height of the flat from floor to ceiling because the thickness of the ceiling slab concerned, which involved plastering work, might vary with workmanship. The thickness of the floor slab might also vary because, while the floors of some flats were tiled, those of others were not. He added that graphic arrows might be used in the sales brochure to indicate how the floor height was measured.

Font size of print in sales descriptions

26. Mr WONG Kwok-hing pointed out that at times some information in sales brochures were printed in such a small font size that property buyers would miss important information. In response, Atg PSH said that the Administration had already requested REDA to require its members to highlight SA information in sales brochures in larger font size or in different colours.

27. The Chairman enquired whether these were specific requirements on the font size of the print in sales descriptions, pointing out that the deliberate presentation of essential sales information in small print was a long-standing problem to be rectified. In this connection, Mr WONG Kwok-hing suggested that consideration should be given to adopting the font size of print used by newspapers as the standard for printing sales brochures. In response, Mr Stewart LEUNG of REDA advised that REDA had already time and again reminded its members to ensure the font size of the print in sales brochures was readable to the common people. He undertook to remind REDA members on this again. Ms Connie LAU of CC added that as understood, the telecommunications sector had already imposed requirements on the font size of print in contracts and sales materials used by the service providers. Developers might consider following suit. CC had been making efforts for years to ensure that the same could apply to property developers to ensure that the print in sales brochures was legible to the common people so that buyers could not miss any essential details. In this regard, CC was also concerned about the accuracy of promotional materials, and was reviewing legislation regarding business practices in the hope of ensuring the accuracy of advertising and promotional materials in general.

The need to introduce legislation to govern the sale of uncompleted first-hand residential properties

28. Given that REDA's guidelines and method of floor area measurement adopted by relevant parties were only non-statutory measures, Dr YEUNG Sum said that the Democratic Party (DP) saw a need for the Administration to introduce legislation as soon as practicable to govern the sales arrangements for uncompleted first-hand residential properties and regulate the calculation of floor areas of units, so as to enhance protection for property buyers.

29. In response, Atg PSH re-iterated that to enhance protection for property buyers, the Administration had been adopting a multi-pronged approach to improve market transparency and strengthen consumer education while maintaining a free business environment. As evidenced by the decline in complaint figures in recent years, requirements for developers under the Consent Scheme and REDA's guidelines had proved useful in ensuring the provision of necessary sales information. Moreover, developers were required to set out a clear breakdown of SA in the ASP which would provide property buyers with contractual protection regarding the provision of SA information. To further promote consumer protection, CC and EAA had also jointly updated the Notes to remind property purchasers of the need to study carefully floor area information including SA in sales brochures. She assured members that the Administration would not rule out the option of introducing more stringent administrative or legislative measures to enhance market transparency in the sale of uncompleted residential properties if the situation so warranted. At present, however, with the assistance of CC and EAA, REDA's self-regulatory regime had been running smoothly.

30. Dr YEUNG Sum was disappointed at the Administration's response, and re-iterated the need to introduce legislation for regulating the sale of uncompleted first-hand residential properties as soon as practicable to effect adequate protection for consumers. In his view, despite CC and EAA's efforts, consumer protection was still limited. Sharing the concern, the Chairman called on the Administration to consider Dr YEUNG's views.

31. Mr Albert CHAN opined that the above discussion on HKIS's proposal had highlighted the needs to adopt standardized definition of floor area and method of calculation, as well as to introduce legislation for governing the sale of uncompleted first-hand residential properties. In his view, notwithstanding the improvements in sales descriptions highlighted by REDA, misleading and confusing information arising from the use of different terms on floor area and calculation methods would continue to make property purchasers vulnerable. Since purchasers very often lacked the financial means to protect their rights in property transactions, if sales brochures were not legal documents and were not binding on developers, property buyers could not seek compensation or pursue contractual remedies for any misleading information provided therein. In this connection, he sought REDA's views on the proposed legislative approach for regulating developers in relation to sales information.

32. Mr Stewart LEUNG of REDA emphasized that REDA had all along been making various efforts to help sort out problems relating to the sale of uncompleted first-hand residential properties, and a number of improvements had already been made to plug loopholes identified, and to enhance market transparency as well as consistency and clarity of floor area information in sales descriptions. Moreover, REDA's self-regulatory regime had been operating effectively and cases of non-compliance by developers were rare. If REDA's self-regulatory regime failed to achieve the desired outcome, the Administration could always take actions to reinforce the existing regime. In the rare event of non-compliance by developers, there was already legislation enabling the property purchaser concerned to take the case to court. As such, he did not see any need for the Administration to introduce legislation to regulate the sale of uncompleted first-hand residential properties. There was concern that the adoption of a rigid legislative approach might result in abuse, so that any minor disputes, such as discrepancy in finishes as a result of workmanship, could lead to legal proceedings.

33. Mr LEUNG Kwok-hung echoed the concerns expressed by Mr Albert CHAN, and opined that the Administration had the responsibility to protect property buyers against misleading sales information through a legislative approach to provide a clear and uniform definition of SA and a standardized method of measuring floor space. In his view, if developers had no intention to mislead purchasers, they should not oppose to the introduction of legislation. In response, Mr Stewart LEUNG of REDA re-iterated that there was already legislation enabling property purchasers to take legal action against developers in relation to misrepresentation of sales information. Mr LEUNG Kwok-hung, however, pointed out that in pursuing legal actions, there would be a need to prove fraud on the part of developers, which was difficult to achieve. A legislative approach for regulating property sales should instead be adopted to facilitate the pursuit of proceedings where appropriate.

34. Prof Patrick LAU did not see a need to introduce legislation to regulate the provision of sales information for uncompleted first-hand residential properties. He opined that calculation methods for SA and GFA had already been prescribed in the law. Not only was the architect responsible for a residential development project required to work according to the General Building Plan as approved by the Buildings Department, but the common areas to be included in GFA were also clearly set out in the Buildings Ordinance (BO) (Cap. 123), and could be suitably apportioned to each unit on a pro-rata basis. The existing method for calculation of floor area had also been improved and was in fact similar to that proposed by HKIS. A property buyer could easily understand the floor area of the unit he was buying by examining the relevant General Building Plan, by referring to the assignment plan appended to the ASP which would also clearly specify the common areas included, and by looking at the relevant demonstration units set up by developers for easy reference. In his view, the crux of the problem under discussion was not the lack of legislation but the comparisons made by property buyers between the per square foot prices of different properties. Such comparisons might not be sensible and might give rise to misunderstanding because direct comparison was impossible due to price differences arising from the different

orientations and locations of the flats concerned. He further said that the most important information to a buyer was the "usable area" of a unit. Since the use of different terms to describe flat area would confuse buyers, the adoption of a clear and standardized definition of SA would suffice to minimize problems.

35. The Chairman disagreed with Prof Patrick LAU's views, pointing out that although SA had been defined in the Practice Notes of the Lands Department, some developers could "inflate" floor areas of units for making extra profits by including common areas and auxiliary facilities in the calculation of SA. In fact, according to a survey conducted by DP on four residential developments, the discrepancy between GFA and SA of units varied, and in some extreme cases variation could be as great as 40% to 50%. For example, in a development in Prince Edward Road West, the staff of the developer concerned admitted that while the claimed per square foot price as calculated on the basis of GFA was some \$6,000, if SA was used as the basis for calculation, the price was indeed some \$8,000. As such, the Chairman saw a need to develop a standardized method with statutory effect for measuring floor areas of residential properties for compliance by developers and to disclose the information in sales brochures. The use of one standard term "saleable area" as the basis for calculating the per square foot prices of properties would also enable consumers to know clearly the per square foot prices they had to pay for different properties and hence make meaningful price comparisons.

36. Mr Abraham SHEK shared Prof Patrick LAU's views in paragraph 34 above. He further pointed out that the "efficiency ratio" of a unit would differ with the type of property development, in particular the number of units sharing the common areas. This would in turn give rise to discrepancy between SA and GFA as highlighted by the Chairman. He urged that the Chairman should discuss with the architects, to whom the concept of SA was very clear. Rigid legislation might not be able to flexibly cater for the problem. On the protection for property buyers, Mr SHEK said that "cheating by developers" as some members had claimed was not possible as buyers were represented by their solicitors in property transactions. He further pointed out that the mere presence of so many representatives of developers at this special meeting spoke well for their sincere desire to help make improvements to the sales arrangements of residential properties.

37. Atg PSH re-iterated that pursuant to the discussion at the Panel meeting on 2 April 2007, REDA had already included in its guidelines requirements to improve the presentation of SA in sales brochures and price lists. For example, REDA had already asked its members to disclose SA in price lists, including listing out separately the area of balcony, bay window, roof, flat roof, utility platform, etc. The Administration had also worked with CC and EAA the necessary updates to the Notes and reminded prospective purchasers that they had to pay particular attention to SA of the properties they intended to purchase. As regards HKIS's proposal which sought to replace SA with CA and AA, if the proposal was to be pursued, consumer education would need to be stepped up to promote the new measurement method.

38. Mr Stewart LEUNG of REDA said that there had not been any case of "inflation" of floor areas of units by developers for making extra profits. Such allegations might arise from including in the calculation of SA certain green features, such as balconies, podium gardens, etc., which had been exempted from GFA and Site Coverage (SC) calculation. However, since the above facilities incurred construction cost, it was justified to include them in the calculation of SA. As for the property development in Prince Edward Road West highlighted by the Chairman, as understood, the developer concerned had not included many common areas, not even the club house, in the calculation of SA.

39. The Chairman indicated disagreement with REDA's explanation that the problem of "inflation" in floor area was attributed to the inclusion in SA green features exempted from the calculation of GFA. He expressed concern about the different practices adopted by different developers in apportioning common areas and calculating areas for the exclusive use of the purchaser, and pointed out that not all developers acted fairly in this regard. Without enacting the relevant legislation it would be difficult to ensure fairness in the process.

40. Mr Albert HO opined that the introduction of legislation to ensure the accuracy and transparency of sales information, in particular on SA, was absolutely necessary and could minimize disputes and grievances from property buyers. In this connection, he enquired about overseas practices in the calculation of SA. In reply, Mr Raymond CHAN of HKIS said that in most overseas countries only the internal floor area would be used to describe area for sales. The problem in Hong Kong was related to the calculation of SC and PR, under which the external wall and its full thickness was included. As such, if the calculation of SA in Hong Kong was to be amended to exclude the external wall, the calculation of SC and PR, which affected the land premium, and hence BO, which stipulated how SC and PR should be calculated, might need to be amended to reflect the changes and their impacts on the land premium and in turn flat prices.

Concluding remarks

41. Atg PSH assured members that the Administration would keep up efforts to improve the regulatory regime of the sale of uncompleted first-hand residential properties taking into account the public's views on HKIS's proposal and concerns about implementation problems and arrangements. The Administration also aimed to encourage consumers to make comparison between GFA and SA of a unit such that they could grasp the difference between per-square-foot price on GFA basis and SA basis. To achieve that, there was a need to gear up consumer education. The Administration would continue to give full support for CC's work in this regard.

42. In this regard, Ms Serena LAU of HKIS advised that consultation on HKIS's proposal was in progress. HKIS was well aware of the significant implications of its proposal, and hence the need to examine it in detail with other stakeholders including CC, EAA and REDA etc., in the hope of achieving a consensus before taking the proposal further.

43. Mr Stewart LEUNG of REDA explained that on the average an efficiency rate of about 80% was common in the market. This however did not mean that the floor area had been inflated. He pointed out that construction of common areas incurred costs and hence including them in the calculation of GFA was justified. The components of common areas so included would be clearly stated in sales brochures. Moreover, the inclusion of common areas such as corridors, staircases, lift shafts, and communal facilities was reasonable as they were not exempted from calculation of GFA by the Buildings Department. He reiterated that REDA's Guidelines had clearly provided for the full disclosure of GFA and SA in sales brochures and price lists. The information thus provided to the consumers was clear and adequate, and there was no need to introduce legislation in this regard.

44. Ms Sandy CHAN of EAA advised that EAA was an enforcement agency responsible for regulating the professional conduct of estate agents and taking necessary enforcement actions in accordance with existing legislation and EAA's Code of Ethics. Should there be any change to the calculation of SA, EAA would issue a new practice circular to explain the change to estate agents.

45. Ms Connie LAU of CC confirmed that complaints about property transactions received by CC in the first half of 2007 had exceeded 280. Among them, a majority was relating to sales practices and misrepresentation. CC had commenced a comprehensive review of consumer protection laws covering aspects including undesirable business practices, misleading advertisements, and research on relevant overseas legislation. It was CC's intention to submit recommendations to the Administration in late 2007 for public consultation. CC would enhance transparency of the relevant review report to enable relevant parties to give comments.

46. Noting that relevant stakeholders would continue to discuss improvements on the definition and calculation of GFA and SA, the Chairman said that the Panel should re-visit the subject with relevant parties when there were new developments.

IV Meeting with the Secretary for Transport and Housing

Opening remarks by the Secretary for Transport and Housing

47. The Chairman welcomed the Secretary for Transport and Housing (STH) to the meeting and congratulated her on the assumption of the STH post, and indicated wish to build up a close working relationship with her. STH thanked the Panel for providing an opportunity for her to share with members her vision in respect of the housing portfolio. She said that the policy area on housing involved a number of complicated issues and was intricately linked to economic development, demographic changes, land supply and welfare matters. The Administration would strive to formulate the relevant policies by adopting the "bottom-up" and "always people first" approaches. She then highlighted the major areas of work in relation to housing as follows:

- (a) The Administration and the Housing Authority (HA) would continue to provide public rental housing (PRH) for low-income families. HA would regularly review the public housing production programme and closely monitor the supply of land for developing PRH to maintain the average waiting time at around three years;
- (b) In order to provide a pleasant living environment for PRH tenants, HA would continue to undertake the Total Maintenance Scheme, Comprehensive Structural Investigation programme and greening works for public housing estates (PHEs). HA had also launched the Marking Scheme for Estate Management Enforcement in PHEs (the Marking Scheme) to improve the environmental hygiene of the estates. In developing new PRH, HA would apply computer simulation techniques to obtain scientific data in relation to wind speed, air flow, sunlight and daylight availability to design a better living environment for tenants ; and
- (c) HA would step up publicity on the Rent Assistance Scheme (RAS) for which the eligibility criteria would be relaxed in August 2007. HA had also enhanced a number of public housing arrangements to strengthen the family-based support network.

Discussion

48. Citing incidents such as the divestment of retail and car-parking facilities to the Link Management Limited (The Link) and the introduction of the new rent adjustment mechanism for PRH, Miss CHAN Yuen-han pointed out that at times there were differences in views between HA and Legislative Council (LegCo). She called on the Administration and HA to take heed of LegCo Members' views when considering housing issues as they represented the public views.

49. Miss CHAN Yuen-han opined that the Home Ownership Scheme (HOS) was a means for PRH tenants to improve their living environment and address their home ownership aspirations. With cessation in the production of HOS, PRH tenants had found it difficult to purchase flats in the private market. It had been the view of the Hong Kong Federation of Trade Unions that the Administration had the responsibility to take care of the basic housing needs of low-income households through the provision of PRH, while HOS and private housing should be provided to meet PRH tenants' aspirations for home ownership and improvement in living conditions. In this connection, Mr Frederick FUNG suggested that the Administration should consider reviving HOS for the green form applicants. Mr LEUNG Kwok-hung echoed that the Administration should consider reviewing the need of HOS as it was an important housing policy for improving the living conditions of PRH tenants and releasing PRH flats for re-allocation to the needy families on the Waiting List.

50. Mr Frederick FUNG stressed the needs for senior estate management to attend meetings of the Estate Management Advisory Committees (EMACs) so as to enhance the communication with tenants, and to implement recommendations of EMACs. He also looked forward to having regular meetings with the STH to discuss concerns of the Hong Kong Association for Democracy and People's Livelihood on housing issues.

51. Mr Frederick FUNG further expressed concern about the shortage of land supply for the development of new PRH. Pointing out that a majority of the new public estates under construction were in the New Territories and that a large number of existing PRH tenants were recipients of Comprehensive Social Security Assistance, he urged HA to adopt a balanced approach by avoiding concentrating new PHEs in the relatively poor districts. He further suggested that HA should consider reviewing the formula for calculating household income and assets in determining the "well-off" tenants given the change in the socio-economic environment.

52. Mr LEUNG Kwok-hung raised objection towards the Marking Scheme as it had resulted in double penalty for PRH tenants since they were subject to prosecution under the relevant laws for the misdeeds and allotment of penalty points under the Scheme. He also found it absurd to hold the entire family liable for the misdeed committed by individual family member(s).

53. On RAS, Mr LEUNG Kwok-hung urged HA to review the existing harsh requirement for tenants to move to cheaper flats in older block types if they wished to continue receiving rent assistance after a continuous period of three years, as the requirement was a disincentive for tenants in genuine need to apply for RAS. He also sought details on HA's plan to maintain the average waiting time for PRH at around three years. Mr LEUNG further called on the Administration to take note of the plight of the low-income class, especially those living in the "cubicle apartments" in the old estates, and implement measures to improve their living conditions.

54. Mr Abraham SHEK welcomed the Administration's commitment to continue the provision of PRH for low-income families. He enquired about the number of applicants on the Waiting List and the annual flat allocation rate. He opined that HA should consider expediting the production of PRH in order to shorten the average waiting time to less than three years.

55. The Chairman highlighted the importance of maintaining continuous dialogue between the Panel and the Administration on housing issues. He highlighted the following areas which STH should follow up:

- (a) To step up regulation on the sales arrangement for first-hand private residential properties and disclosure of sales information, such as saleable area disclosure in sales descriptions;

- (b) To ensure adequate land supply for new PRH development with a view to maintaining the average waiting time at around three years;
- (c) To tackle issues relating to management and provision of retail and car-parking facilities under The Link's management. In particular, to address PRH tenants' concern about rise in prices in goods and services in The Link's shopping centres; and
- (d) To review the need of reviving HOS given the rising trend in prices for new private residential properties.

56. STH noted Members' views and suggestions and stressed that it was her responsibility as a Principal Official under the Accountability System to explain policy issues to Members. She also concurred with the Chairman on the importance of maintaining continuous dialogue with the Panel on various housing issues of public concern. On the role played by EMACs, STH appreciated EMAC's great contribution to encouraging tenants' participation in discussing, formulating, as well as implementing various measures to improve the management in PHEs. She said that Members were welcomed to bring to the Administration's attention if they identified any cases where EMACs' recommendations were not implemented. As regards the concern about land supply for developing PRH, STH pointed out that as the issue involved allocation of precious land resources, close coordination between the Transport and Housing Bureau and the Development Bureau was required. A standing communication mechanism was already in place between the two bureaux to discuss related issues. On the allocation of PRH flats, STH advised that the existing waiting time for Waiting List applicants was less than three years, and whether the average waiting time pledge could be maintained hinged on a number of factors including the adequate supply of land for production of new PRH flats. She admitted that in conducting consultation with District Councils, the Administration was aware of the reservations expressed by some District Council members on PRH developments in their districts. HA would need to address the concerns of the local residents and take into account concerns about possible over-concentration of PRH in any one district.

57. As regards the suggestion of reviving HOS, STH said that apparently the sale of surplus HOS flats in 2007 Phase 1 had not created any adverse impact on the private residential market. HA would continue with the plan to dispose of the remaining surplus flats in batches from 2007 to 2009. While acknowledging that HOS could help some low-income families to acquire home ownership, STH cautioned that the Administration should not assume the role of a property developer. Nevertheless, she said that the Administration was prepared to discuss further with the Panel on the role of HOS.

V Any other business

58. There being no other business, the meeting ended at 6:55 pm.

Council Business Division 1
Legislative Council Secretariat
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