

立法會
Legislative Council

LC Paper No. CB(1)1374/08-09
(These minutes have been seen
by the Administration)

Ref : CB1/PL/DEV/1

Panel on Development

**Minutes of special meeting
held on Monday, 16 February 2009, at 9:00 am
in the Chamber of the Legislative Council Building**

Members present : Hon LAU Wong-fat, GBM, GBS, JP (Chairman)
Prof Hon Patrick LAU Sau-shing, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Emily LAU Wai-hing, JP
Hon Albert CHAN Wai-yip
Hon LEE Wing-tat
Hon Alan LEONG Kah-kit, SC
Hon CHEUNG Hok-ming, SBS, JP
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king
Hon Tanya CHAN
Dr Hon Priscilla LEUNG Mei-fun
Hon IP Kwok-him, GBS, JP

Members attending : Hon WONG Kwok-hing, MH
Hon LEUNG Kwok-hung

Members absent : Hon WONG Yung-kan, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Dr Hon Samson TAM Wai-ho, JP

**Public officers
attending**

: Agenda item I

Mrs Carrie LAM
Secretary for Development

Mr Raymond YOUNG Lap-moon, JP
Permanent Secretary for Development (Planning and
Lands)

Miss Annie TAM Kam-lan, JP
Director of Lands

Mrs Ava NG TSE Suk-ying JP
Director of Planning

Mr Raymond Cheung
Political Assistant Secretary for Development

Miss Diane WONG Shuk-han
Principal Assistant Secretary for Development (Planning
and Lands)1

Agenda item II

Mr Tommy YUEN Man-chung, JP
Deputy Secretary for Development (Planning and Lands) 2

Mr Edward TO Wing-hang
Principal Assistant Secretary for Development (Planning
and Lands) 3

Mr LAM Siu-tong
Deputy Director of Buildings

Mr Paul PANG Tat-choi
Assistant Director of Buildings

**Attendance by
Invitation**

: Agenda item I

Islands District Council

Ms CHAU Chuen-heung
Vice Chairman

The Civic Party

Mr Michael KWOK
Chairman
Environment and Sustainable Development Branch

The Hong Kong Institute of Surveyors

Dr Lawrence POON
Chairman
General Practice Division

Mr Tony WAN
Hon Secretary
General Practice Division

Individual

Ms LAM Yau-han
Islands District Council member

Individual

Ms YUNG Wing-sheung
Islands District Council member

The Hong Kong Institute of Architects

Mr K S WONG
Vice President

Mr Stephen HO
Deputy Chairman
Board of Local Affairs

Coastal Skyline Phase 1 Owners Sub-committee

Mr CHAU Tak-kwong
Chairman

Local Action

Mr CHU Hoi-dick
Member

The Incorporated Owners of Botania Villa

Mr LAU Cheuk-yin
Chairman

Mr LAU Shun-keung
Member

The Democratic Party

Mr LAM Ho-yeung
Chairman
Kowloon West Branch

Individual

Miss CHAN Mei-yuk

Individual

Mr HO Wai-lun

Individual

Ms Janice WONG

The Incorporated Owners of Jubilant Place

Mr LEUNG Fuk-pui
Chairman

Miss Angela YING Mei-kei
Treasurer

The Owners' Committee of Bellagio

Mr Peter HO Kam-hing
Representative

Mr TAM Wing-sum
Representative

The Lion Rock Institute

Mr Daniel O'CONNOR
Development Manager

Mr Andrew SHUEN
Research Director

The Hong Kong Institute of Landscape Architects

Mr Patrick LAU Hing-tat
Past President

Miss LAU Wing-chi
Member

Hong Kong Architecture Centre

Ms Agnes NG Ka-yin
Chairman

Mr Platteen TSANG
Assistant Centre Manager

The Hong Kong Institute of Planners

Mr Kin CHAN
Vice President

FM Theatre Power

Miss LAI Yan-chi
Chairman

Mr Banky YEUNG Ping-kei
Artistic Director

Clerk in attendance : Ms Anita SIT
Chief Council Secretary (1)4

Staff in attendance : Mr WONG Siu-yee
Senior Council Secretary (1)7

Ms Christina SHIU
Legislative Assistant (1)7

I Public facilities in private developments

- (LC Paper No. CB(1)319/08-09(03) -- Administration's paper on provision of public facilities in private developments
- LC Paper No. CB(1)367/08-09(01) -- Administration's paper on provision of public facilities in private developments (Supplementary note)
- LC Paper No. CB(1)319/08-09(04) -- Paper on public facilities in private developments prepared by the Legislative Council Secretariat (Background brief)
- LC Paper No. CB(1)611/08-09 -- Minutes of special meeting on 8 December 2008)

The Chairman invited deputations to present their views.

Presentation by deputations

Islands District Council

2. Ms CHAU Chuen-heung, Vice Chairman, Islands District Council, said that the Islands District Council had consulted some property owners in Tung Chung on the subject matter. The most disputed case was the walkway between Caribbean Coast and Costal Skyline. As owners concerned did not have a clear understanding that they had to bear the relevant costs, it was unfair to them. They also had to shoulder additional costs on security. The Administration should give due attention to the matter. As regards public open space (POS) on Government land, owners had no strong views on the current arrangements and wanted to maintain the status quo. If the Administration recovered such POS and added new facilities, it would involve additional resources and those new facilities might create even more nuisances to the residents.

The Civic Party

(LC Paper No. CB(1)761/08-09(01))

3. Mr Michael KWOK, Chairman, Environment and Sustainable Development Branch, The Civic Party, delivered his presentation, the details of which were given in the relevant submission.

The Hong Kong Institute of Surveyors (HKIS)

4. Dr Lawrence POON, Chairman, General Practice Division of HKIS, welcomed that the Administration was taking prompt actions to tackle the matter. Nevertheless, HKIS had reservations on the Administration's proposal of granting a waiver to the owners of Metro Harbour View because owners of other relevant

developments also faced similar nuisances and security concerns. The Administration should consider the rights and feelings of all stakeholders. Otherwise, other owners would have an impression that public access to POS with unsatisfactory design could be waived but there would be no such arrangement for POS with good design. If the Administration decided to adopt the option, it should determine appropriate waiver fees and consider providing alternative POS nearby as compensation.

*Ms LAM Yau-han, Islands District Council member
(LC Paper No. CB(1)761/08-09(02))*

5. Ms LAM Yau-han, Islands District Council member, delivered her presentation, the details of which were given in the relevant submission.

*Ms YUNG Wing-sheung, Islands District Council member
(LC Paper No. CB(1)761/08-09(03))*

6. Ms YUNG Wing-sheung, Islands District Council member, delivered her presentation, the details of which were given in the relevant submission.

*The Hong Kong Institute of Architects
(LC Paper No. CB(1)1037/08-09(01), issued to members after the meeting on 13 March 2009)*

7. Mr K S WONG, Vice President, The Hong Kong Institute of Architects, welcomed the Administration's direction in handling POS in private developments, such as enhancing the design and accessibility of POS in future. He urged the Administration to involve stakeholders in drawing up guidelines for the design and management of POS and implement those guidelines as soon as possible. There was room for improvement in the planning of POS. Apart from quantity, the quality of POS should be given equal attention. As POS in old districts were often scattered, the Administration could consider linking them up. Overseas cities like New York and London had long-term strategies on how to link up POS. Hong Kong should step up its efforts in this regard.

*Coastal Skyline Phase I Owners Sub-committee
(LC Paper No. CB(1)761/08-09(04))*

8. Mr CHAU Tak-kwong, Chairman, Coastal Skyline Phase I Owners Sub-committee, delivered his presentation, the details of which were given in the relevant submission.

Local Action

(LC Paper No. CB(1)810/08-09(02), issued to members after the meeting on 17 February 2009)

9. Mr CHU Hoi-dick, Member, Local Action, delivered his presentation, the details of which were given in the relevant submission.

The Incorporated Owners of Botania Villa

(LC Paper No. CB(1)761/08-09(05))

10. Mr LAU Cheuk-yin, Chairman, The Incorporated Owners of Botania Villa, delivered his presentation, the details of which were given in the relevant submission. He added that owners of the seven other private developments concerned also faced similar problems as in the case of Metro Harbour View.

The Democratic Party

(LC Paper No. CB(1)779/08-09(01))

11. Mr LAM Ho-yeung, Chairman of Kowloon West Branch, The Democratic Party, delivered his presentation, the details of which were given in the relevant submission.

Miss CHAN Mei-yuk

(LC Paper No. CB(1)761/08-09(06))

12. Miss CHAN Mei-yuk delivered her presentation, the details of which were given in the relevant submission. She added that POS in private developments would lead to security and hygiene problems.

Mr HO Wai-lun

(LC Paper No. CB(1)761/08-09(07))

13. Mr HO Wai-lun delivered his presentation, the details of which were given in the relevant submission. He expressed concern about the Administration's stance on the issue, the criteria it would use in making its decision and whether the Administration had any timetable in solving the problem.

Ms Janice WONG

14. Ms Janice WONG said that the owners of Coastal Skyline were misled by the developer concerned because when they purchased their flats, they did not know that the relevant POS had to be opened up to the public. They would have to bear additional costs if they wanted to implement remedial measures to address security concerns. The Administration should consider allowing the owners to open up to the public the access below the podium in exchange for owners' private use of the existing POS on the podium. This would create a win-win situation.

Alternatively, as the existing POS was quite wide, it could be separated into two sections, one for private and the other for public use. As a staircase and a lift were already provided for public use, the Administration should not enforce lease conditions rigidly by requiring the management company of Coastal Skyline to open up the escalator for public use as well.

The Incorporated Owners of Jubilant Place
(LC Paper No. CB(1)761/08-09(08))

15. Mr LEUNG Fuk-pui, Chairman, The Incorporated Owners of Jubilant Place, delivered his presentation, the details of which were given in the relevant submission. He added that managing the common areas of their development was easier than that for the POS in their development. For the latter, assistance from the Hong Kong Police Force was sometimes needed.

The Owners' Committee of Bellagio
(LC Paper No. CB(1)761/08-09(09))

16. Mr Peter HO Kam-hing, Representative, The Owners' Committee of Bellagio, delivered his presentation, the details of which were given in the relevant submission.

The Lion Rock Institute
(LC Paper No. CB(1)761/08-09(10))

17. Mr Andrew SHUEN, Research Director, The Lion Rock Institute, delivered his presentation, the details of which were given in the relevant submission. He added that the costs borne by developers in providing public facilities should be reflected in the Government accounts. Revenues from land sale would be reduced when developers had to provide public facilities. The Administration should empower property management companies with management powers similar to those of the MTR Corporation Limited for managing the POS in their developments. The Administration's planning of public facilities was often unsatisfactory. Activities allowed on POS in private developments could in some cases be less restrictive than those on POS on Government land. Private management companies could provide better management of POS.

The Hong Kong Institute of Landscape Architects
(LC Paper No. CB(1)823/08-09(01), issued to members after the meeting on 17 February 2009)

18. Mr Patrick LAU Hing-tat, Past President, The Hong Kong Institute of Landscape Architects, delivered his presentation, the details of which were given in the relevant submission. He added that open space should be clearly distinguished from public space. The provision standards referred to in the Hong

Kong Planning Standards and Guidelines (HKPSG) were on open space. The current problems arose because POS in private developments were often used to make up for the shortfall in open space in old districts. The Administration should step up its efforts in implementing green infrastructure so that the need for POS in private developments could be reduced. The design of POS should cater for the needs of the target users. Such needs should be clearly defined so that the design could tie in with the future management of the POS. The intended uses of the POS should be decided first before making a decision on the management method. The Administration and parties concerned should discuss the design and facilities of the POS with District Councils in an open manner based on the planning intention of the POS.

Hong Kong Architecture Centre

(LC Paper No. CB(1)810/08-09(01), issued to members after the meeting on 17 February 2009)

19. Ms Agnes NG Ka-yin, Chairman, Hong Kong Architecture Centre, delivered her presentation, the details of which were given in the relevant submission.

The Hong Kong Institute of Planners (HKIP)

20. Mr Kim CHAN, Vice President, The Hong Kong Institute of Planners, said that HKIP supported upholding the policy in principle, especially for districts where there was a shortage of POS. The Administration should implement easily accessible POS in private developments in old districts. After a reasonable period of time of implementing POS on private and Government land, the Administration should take up the management responsibilities through a publicly recognized mechanism. It would be unfair to require owners concerned to bear the responsibilities perpetually. POS in private developments should not be implemented in newly planned districts with sufficient POS. POS in private commercial developments were acceptable if the developers concerned were willing to shoulder the management responsibilities. The Administration should promulgate clear and practical guidelines for managing POS. POS should be designed and managed based on individual circumstances. HKIP disagreed to the Administration's position that Bureaux/Departments would not in future recommend to the Town Planning Board (TPB) to accept or require the provision of privately-managed POS, because such an approach was too inflexible.

FM Theatre Power

21. Miss LAI Yan-chi, Chairman, FM Theatre Power, said that rather than making absurd management and security regulations, consideration should be given to allowing more activities to be held on POS in private developments so as to create more free and vibrant zones. She expressed concern about the regulations made by private management agencies because adopting an incorrect management

mode would limit the activities that could be held and hinder the development of free and vibrant zones like the pedestrian zone in Mong Kok. By way of illustration, some regulations stipulated that playing games and praying were not allowed. She considered that regulations of these kinds overrode the laws of Hong Kong.

Briefing and response by the Secretary for Development

22. The Secretary for Development (SDEV) said that the Administration respected citizens' right to know and hence information on public facilities in private developments including POS had been released on Government websites in batches. The last batch would be released in the first half of 2009. At present, out of the 47 POS provided by 43 private developments, 14 were on Government land, 32 on private land and the remaining one on both. Generally, no major problems were envisaged for public facilities like public transport interchange, Government and community facilities and public access in private developments. For POS in private developments, the major concerns were the management and maintenance costs to be borne by the owners and how to strike a balance between public accessibility and private rights. She solicited Panel members' input on how to draw a conclusion and achieve a consensus on the direction forward.

23. SDEV further said that the stance of TPB on the future provision of POS in private developments was given in paragraph 20 of the Administration's paper (LC Paper No. CB(1)319/08-09(03)). The Administration could still recommend the provision of POS in private developments under special circumstances. For the POS in Tung Chung, the simplest solution was for the Government to recover the POS. However, the relevant District Council and owners' corporations held different views. Further discussion was needed to resolve the issue. For Metro Harbour View, granting a waiver was only one of the possible solutions. There were also different views on the proposal and it was necessary to determine a waiver fee in each case. The Administration would make its decision based on objective criteria agreeable to the Panel. She concurred that District Councils could collate the views of stakeholders on possible solutions to assist the Administration in taking the matter forward. The suggestion of providing an alternative public access in Coastal Skyline was an accommodative and practical solution. Regarding other specific cases mentioned by deputations such as the POS in Discovery Bay, the Development Bureau would follow up if details were available.

Discussion

Design of public open space

24. Prof Patrick LAU expressed support for the Administration in seeking members' input on how to take forward the matter. As Hong Kong was a compact city, how the public could benefit from POS in private developments was

important. The Administration should review the HKPSG because merely setting a quantitative standard for open space was inadequate. The quality of open space was also important. For the eight cases concerned, the initial design of the POS was the crux because it would affect how the POS could be managed. From the architectural point of view, open space could be classified as public, semi-public, private and semi-private. Failure to distinguish different kinds of open space at the design stage led to the present problems. Open space should be clearly classified to facilitate future management. The issue should be tackled from the town planning perspective because without a good design, management of open space would be difficult. However, TPB did not have any dedicated working group to look into the design of open space. The Real Estate Developers Association of Hong Kong had responded to many public concerns in its written submission (LC Paper No. CB(1)761/08-09(12)). He believed that developers would be willing to cooperate and appealed to all parties concerned to resolve historical problems in a fair and harmonious manner.

25. SDEV concurred that cooperation between the public and private sectors was necessary in implementing integrated developments. The Administration would consider the suggestion of setting up a dedicated group to look into various design issues. The Administration had engaged a consultant to formulate the POS management guidelines, which would take into account the design aspects.

26. Mr Alan LEONG considered that the Administration should review the HKPSG on provision of open space, and formulate POS management guidelines through public engagement. There should be better cooperation among Government departments concerned. The Planning Department and TPB should coordinate and be more accommodative so that POS with good design could materialize. The Administration should engage professionals to design POS and enhance its communication with District Councils and stakeholders. He referred to Civic Party's written submission (LC Paper No. CB(1)761/08-09(01)) and asked what difficulties the Administration would envisage in adopting the four directions mentioned therein.

27. SDEV responded that there was no big difference in broad principles between the Civic Party and the Administration on the four directions. The timetable for implementing various measures would depend on the Administration's work schedule. While the Administration would review the HKPSG on a regular basis, it would strengthen the implementation of the HKPSG. She concurred that there should be more participation by District Councils and the public in designing POS. By way of illustration, the Wan Chai District Council would be invited by the developer to participate in a committee set up for designing two POS sites in its new development in Wan Chai. The Administration would also nominate Government and non-Government representatives to sit on an advisory committee set up by the developer for managing the Ma Wan Park. It was unfair to criticize the officials responsible for approving the designs of the POS concerned because their intention was to provide more open space for the

community taking into account the circumstances of individual cases. Otherwise, officials would be hesitant in being proactive in future. The Administration's policies would keep up with the times.

28. Mr Albert CHAN said that some POS in private developments provided few facilities in order to prevent possible nuisances to the residents. The owners of some private developments even removed existing facilities from the POS so as to discourage public use. How to strike a balance between the interests of the owners and the nearby residents was an issue. He suggested that there should be an independent adjudication mechanism with public participation to decide on the type of facilities to be provided and asked whether District Councils would be consulted on each POS project.

29. SDEV responded that District Councils could make recommendations to the Leisure and Cultural Services Department on the design, operation and management of parks and other leisure facilities. Issues such as the type of facilities to be provided on POS could be studied when the Administration formulated the POS management guidelines. In general, the leases would require that the provision of POS should be to the satisfaction of the Director of Lands.

30. Mrs Sophie LEUNG said that all parties concerned should look forward in resolving historical issues. The Administration should receive further views from affected owners in a more focused way. With a view to providing more POS for the public, TPB and relevant Government departments should carefully consider how to formulate lease conditions in a fair manner. The design of POS was important. Without careful planning of the POS, future management would be difficult because some members of the public considered that they were free to do anything on POS. She believed that the Administration had the determination to tackle the matter and with participation from all parties concerned, the problems could be resolved in a step-by-step manner. She urged all parties concerned to rethink over the provision of POS from various perspectives.

Possible solutions

31. Mr CHAN Kam-lam urged the Administration to enhance the vetting of proposals for providing POS in private developments so that private space and POS would not be integrated. The management of POS should also be enhanced. The Administration should consider taking up the management and maintenance responsibilities of POS on Government land. Owners concerned should also understand that allowing public use of POS in private developments was specified in the lease conditions. The current problems arose because there were no comprehensive management and regulating systems at the time when the relevant leases conditions were prepared. The policy had its merits in making the provision of many much needed public facilities possible. Prohibiting the provision of POS in private developments in a rigid manner would deprive the public of such facilities. He urged all parties concerned to consider the matter from a more

comprehensive perspective and resolve the problems in a rational way. He asked deputations concerned whether they also preferred to be granted a waiver as proposed for Metro Harbour View. Clear views on the issue would facilitate the Administration in making a decision which would be more likely to be acceptable to all.

32. Mr LAU Shun-keung, Member, The Incorporated Owners of Botania Villa, said that the presence of POS in their development had brought inconvenience to the residents and they were most worried about security problems. He considered that the residents wished to be granted a waiver because they wanted private use of the space concerned both psychologically and physically.

33. Mr LEE Wing-tat welcomed that the Administration would solicit Members' views on the way forward. He considered that owners of other private developments concerned would find it unacceptable if the Administration only handled the Metro Harbour View case on an exceptional basis.

34. Mr Alan LEONG considered that the Administration should disclose its detailed considerations for cases involving POS on podium level in private developments. The Administration should require the developer concerned rather than the small property owners to bear the necessary fees if a waiver was granted for the Metro Harbour View case.

35. In response, SDEV said that granting a waiver was only one of the possible solutions for consideration. She referred to the written submission from Castello Owners Committee (LC Paper No. CB(1)761/08-09(11)) which indicated that the owners would continue to maintain the POS in their development until there was a change in the Administration's policy. In handling existing POS in private developments, the Administration had to be lawful and reasonable in deciding the method to adopt.

36. Dr Priscilla LEUNG expressed concern about coordinating the needs of developers, private property owners and the public during urban development. As the creation of a continuous waterfront promenade on Kowloon side was hindered by the presence of private developments at certain locations such as Tsim Sha Tsui and Lai Chi Kok, some civic organizations had offered to assist the Administration in lobbying developers and private owners concerned to coordinate and resolve the issue in the greater public interest. Offering compensation might be a possible solution. The interests of owners should be protected as far as possible. The case of Whampoa Gardens illustrated that with good management, POS in private developments would not pose security problems. Commercial and residential uses could co-exist in harmony.

37. Miss Tanya CHAN said that deputations had expressed different views on how to handle the problems related to the POS in Tung Chung. She asked what

consultation work the Islands District Council had conducted to obtain the views of the parties concerned.

38. Ms CHAU Chuen-heung, Vice Chairman, Islands District Council, said that the Islands District Council had discussed the matter with some owners and members of owners' committees and gathered that they were inclined to maintain the status quo because the relevant POS was on Government land and there was no reason to deny public access to the POS. As regards the case of Coastal Skyline, she said that the owners had requested the developer concerned to put the relevant escalator into operation so that the covered walkway on the lower level could be used as a public access, which was more convenient for the users. The proposal of providing an alternative public access was sensible and reasonable.

39. Mr CHAU Tak-kwong, Chairman, Coastal Skyline Phase 1 Owners Sub-committee, however said that owners of Coastal Skyline had requested the developer concerned to stop the operation of the escalator because a lift and a staircase had already been provided for public use. Owners were willing to bear the management costs for private open space, but not for POS.

40. Ms YUNG Wing-sheung, Islands District Council member, said that as the Islands District Council had not yet discussed the subject matter, she could not understand why the Vice Chairman of the Islands District Council could represent the Islands District Council. The views expressed by members of the Islands District Council and the Chairman of Coastal Skyline Phase 1 Owners Sub-committee were different from those of the Vice Chairman of the Islands District Council. As far as POS in private developments was concerned, she considered that the situation in Discovery Bay was the most serious.

41. Ms LAM Yau-han, Islands District Council member, said that residents hoped that the Administration would recover the POS on Government land and take up the management responsibilities so that the management fees that they had to bear could be reduced.

42. Mr Andrew SHUEN, Research Director, The Lion Rock Institute, said that the Administration should not rely on the District Council concerned to represent public views if the relevant POS was heavily used by non-local users. Under these circumstances, the Legislative Council could better reflect public views. In Tung Chung, such pedestrian flow was low and a solution agreed upon by the District Council and owners' committees concerned might be workable.

Property sale information and premium

43. Mr LEE Wing-tat considered that the developers concerned should be held responsible if they misrepresented the information of their developments. The matter could be taken to the courts and those developers should be required to bear the costs for handling issues related to POS in private developments. The

Administration was too hesitant in handling the matter. The Administration should also bear part of the responsibilities because the relevant leases were prepared by the Lands Department. Instead of resolving the matter with the owners, the Administration should discuss with the developers on the responsibilities that those developers should bear.

44. Mr Albert CHAN considered that developers were exploiting grey areas of planning and land use policies to reap benefits. The Administration had to spend a lot of resources in handling issues related to POS in private developments but could not impose any penalty on those developers. Developers had led owners to believe that the relevant POS was private. The public however could not easily use the POS due to the design. If public interest was prejudiced, developers concerned should repay the premium deducted for providing the POS. The Administration should rectify the situation and explore whether it was possible to require the developers concerned to bear part of the costs for resolving the matter.

45. SDEV clarified that there had been no deduction in premium when developers provided POS in private developments. The Administration had introduced enhanced measures that sales brochures of residential properties should specify owners' responsibilities on POS in the developments. The Director of Lands added that with effect from 10 October 2008, developers had to show conspicuously the information on the POS or public facilities concerned in sale brochures and provide a location plan of such POS or public facilities.

46. Mr KAM Nai-wai said that both owners concerned and citizens who used POS in private developments were dissatisfied with the Administration's policy. He enquired about the Administration's stance on the policy. Public facilities in private developments included POS and other Government and community facilities. Although the policy would facilitate the provision of such facilities and the public welcomed such facilities, the owners concerned had to bear the management and maintenance costs. He was worried about whether clearly delineating the subsequent responsibilities for the operation of the public facilities would ensure that property purchasers were willing to bear their responsibilities. Even if purchasers of first-hand private developments with POS had a clear understanding of their responsibilities, this might not be the case for subsequent purchasers.

47. In response, SDEV clarified that TPB's stance mentioned in paragraph 20 of the Administration's paper was related to POS only. She said that the Administration would in principle support the stance of TPB but would first solicit Members' views before adopting a stance on the matter. Both the Administration and TPB considered that there was a need to continue with the policy of providing other public facilities in private developments. Upon completion, those facilities would be handed over to the relevant Government departments or non-governmental organizations for management. Owners would not have to bear the relevant costs. For public access in private developments, owners might have

to shoulder management and maintenance responsibilities. The provision of such public access was conducive to good connectivity between different developments.

48. Dr Lawrence POON, Chairman, General Practice Division, The Hong Kong Institute of Surveyors, welcomed that the Administration would not adopt a one-size-fits-all approach and refrain from providing all kinds of public facilities in private developments. Many public facilities had to be provided in private developments due to limited land resources. As regards premium, he considered that for those developments containing POS, the Government had received less premium, because there must be a difference in the property sale price if there was no such POS in the development.

49. In response, the Director of Lands said that Dr Lawrence POON's statement on premium was a hypothetical one and the Administration could not conjecture the factors that developers would consider when bidding for land. In determining the reserve price, the Administration would not take into account the provision of POS. If the reserve price was not reached, the Administration would not sell the land. A transaction price at or above the reserve price was a reasonable price.

Other comments

50. Mr LEE Wing-tat considered that public space and street activities in new districts were scanty due to large lot size, implementation of Comprehensive Development Areas and proliferation of shopping malls and developments with podiums. The Administration should address these concerns and formulate a policy on how the public could genuinely enjoy POS and use such space for self-initiated public activities. Ms Emily LAU concurred that the Administration should address the concerns of Local Action and FM Theatre Power.

51. SDEV responded that the Administration would consider macroscopic planning and cityscape issues under the subject matter of creating a sustainable built environment. She was aware of the calls for more street activities and had taken note of Members' views in this regard. Members could discuss issues related to management of streets and pedestrian zones and street performances on other occasions.

52. Ms Emily LAU welcomed that the Administration was adopting an open attitude in soliciting Members' views. She said that the provision of POS should be considered at the planning stage. To facilitate the Panel in reaching a conclusion, the Clerk should prepare a summary of the views of deputations and District Councils received for the meeting. The Administration should also brief the Panel on its conclusion. She considered that the subject matter required focused discussion with all stakeholders and asked how the Administration would facilitate the Panel in its work.

53. SDEV concurred that the subject matter required focused discussion. The Administration had set out its preliminary conclusion on the subject matter in its paper for the Panel's special meeting on 8 December 2008 and it would update the information taking into account the case studies conducted recently. The Administration had conducted an analysis of the Metro Harbour View case and it could provide an analysis of the remaining seven cases to facilitate the Panel's work. The Administration had to consider other relevant issues such as whether the relevant department would have the necessary financial resources if it was to take up the management of POS in private developments.

54. Mr Albert CHAN concurred that the Panel could further discuss the subject matter so as to arrive at a conclusion. Alternatively, members could consider forming a subcommittee under the Panel to follow up the subject matter.

55. Ms Emily LAU said that she did not have any views on the suggestion of forming a subcommittee to study the subject matter but she and some members might be unable to join such a subcommittee, if established, because of other commitments.

56. The Chairman said that the Clerk would collate the views received and he would consider with the Deputy Chairman the way forward.

II Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme

(LC Paper No. CB(1)570/08-09(06) -- Administration's paper on Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme -- regulation of service providers

LC Paper No. CB(1)570/08-09(07) -- Paper on Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme prepared by the Legislative Council Secretariat (Background brief)

57. The Deputy Secretary for Development (Planning and Lands) 2 (DS(P&L)2) said that the Administration had previously sought Members' views on the selection of target buildings, inspection items and operational procedures under the proposed Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS) at the Panel meeting on 24 June 2008. The Administration now sought Members' views on the regulation of service providers under the two proposed schemes. In response to the views from various stakeholders, the Administration intended to step up the regulation and expand the pool of service providers.

Assistance for owners

58. Mr Albert CHAN said that he had expressed strong objection to the MBIS not because mandatory building inspection was unnecessary, but because the operation of some owners' corporations were far from satisfactory. Some owners' corporations might even take advantage of ignorant owners when carrying out building inspection and maintenance. He expressed concern about whether the Home Affairs Department's work in relation to owners' corporations was adequate if the MBIS was implemented. It was important that the Administration had good coordination in implementing the MBIS. With the assistance provided by the Hong Kong Housing Society (HKHS) to owners, the situation had some improvements in recent years. However, HKHS did not have any statutory obligation in providing such assistance. Whether it had the necessary resources to cope with massive requests for assistance upon the implementation of the MBIS was another concern. HKHS should pledge in writing that it would provide support to owners who requested its assistance under the MBIS. In this regard, he asked whether there was any formal agreement between the Administration and HKHS.

59. In response, DS(P&L)2 said that the Administration understood that the implementation of the MBIS and MWIS required concerted efforts. The Administration and HKHS were carrying out the necessary preparation work. The Administration would coordinate the assistance to be provided by the Urban Renewal Authority, Buildings Department (BD) and HKHS and ensure that the necessary ancillary facilities and measures would be in place to address the concerns of the public. The Administration and HKHS would have an agreement for the latter to provide assistance in implementing the two schemes. He noted Mr Albert CHAN's concerns about the support to be provided by HKHS and said that the Administration would solicit support from other sources and promulgate the details before implementing the two schemes.

60. Mr KAM Nai-wai was worried about whether the support provided by HKHS through its Property Management Advisory Centres was sufficient. As the quality of the service providers varied, owners' corporations might find it difficult to choose among them. The Administration should provide assistance so that owners could make an informed choice. He asked whether the Administration would conduct visual inspection of the target buildings before requiring the owners to carry out mandatory building inspection. He considered that the Administration should further consult the Panel on its proposals. The Chairman said that the subject matter could be further discussed if necessary.

61. DS(P&L)2 responded that HKHS had 10 existing Property Management Advisory Centres for providing assistance to owners and the Administration would deploy additional resources for the implementation of the MBIS and MWIS. In this regard, the Administration estimated that the BD would require \$80 million each year and 370 staff members. The Administration would also discuss with

HKHS for the latter to provide additional support for affected owners. As regards service providers, the Deputy Director of Buildings (DDB) said that not many of the Authorized Persons, about 500 in total at present, were interested in undertaking works under the MBIS. The Administration would therefore expand the pool of service providers and the number of potential candidates for Registered Inspectors would be about 6 500. With the expanded pool, the chances of tender rigging would be reduced. Under the MBIS, Registered Inspectors would be responsible for carrying out visual and other necessary inspection on the target buildings.

62. Mr Alan LEONG considered that the Administration had not fully addressed members' concerns about the MBIS. By way of illustration, given the large number of target buildings, i.e. buildings aged 30 or above, the supply and training of professionals for undertaking the works remained unresolved. He enquired about the legislative process and advised the Administration not to introduce the relevant legislation hastily. Otherwise, members could not be relieved that the legislation would not cause disturbance to the public. While the Administration's intention in implementing the MBIS was good, many residents, especially those living in old or less well-off districts, were worried about the costs required for the repair works. He expressed concern about how the Administration would provide technical and financial assistance for owners, especially single elderly owners; and the number of owners requiring assistance and whether all such requests could be entertained.

63. In response, DS(P&L)2 said that the Administration intended to introduce the relevant legislation by the end of 2009 and it would provide further details. The Administration had already provided information on the major operational arrangements of the MBIS and MWIS in its paper provided to the Panel in 2008. In its present paper, the Administration provided information on the regulation of service providers and guideline and sanctions. On the provision of technical and financial support, various financial assistance schemes were available, such as the Building Maintenance Grant Scheme for Elderly Owners operated by HKHS and the Building Safety Loan Scheme administered by the BD. Such financial assistance schemes would be applicable to the MBIS and could cater for the needs of elderly owners. HKHS had been providing technical support to owners and owners' corporations. The Administration would discuss with HKHS on how to further strengthen its technical support based on the promulgated number of 2 000 target buildings to be selected annually for mandatory inspection under the MBIS.

64. Prof Patrick LAU said that owners might not be familiar with the application procedures for the various assistance schemes. In this regard, he asked whether the Administration would provide one-stop service under the MBIS. As owners might be unsure of the fees they had to bear, he suggested that a charging mechanism, such as setting a rate which was dependent on the number of flats in a building, could be adopted. He asked whether there would be any statutory time

limit for owners to complete the required repair works. In implementing the MBIS, the Administration should minimize disturbance to the public.

65. In response, DS(P&L)2 concurred that providing relevant information on MBIS and MWIS to owners was important. In this regard, the Administration would design a convenient information dissemination system which would provide information such as inspection and repair items, benchmark fee levels and lists of service providers. Such information might be disseminated through electronic means or through the Property Management Advisory Centres of HKHS. DDB added that The Hong Kong Institute of Surveyors and HKHS would prepare benchmark fee levels for various works items so that owners could assess whether the fees offered by service providers were reasonable. For buildings with owners' corporations, the inspection and repair works should be completed within nine and 15 months respectively from the date of issuance of the relevant notice.

66. Mr LEE Wing-tat expressed support for the MBIS in principle. Although private buildings were involved, it would be in the public interest to enhance safety and amenity in the city. He noted that some members of the public objected to the MBIS in view of the impact of the financial tsunami. He was worried that when the relevant legislation was introduced, there would be many objections from the public. The Administration should reconsider how to take forward the matter in view of the changed circumstances. To demonstrate its commitment, the Administration should consider bearing the first-time inspection costs, consolidating various financial assistance schemes into a single one to facilitate owners and offering interest-free loans to more owners concerned.

67. In response, DDB said that interests had to be paid for the loans administered by BD. DS(P&L)2 added that the loans could be interest-free if the owners concerned had genuine financial hardship. Under the MBIS, HKHS would bear the first-time inspection costs for eligible owners. Extending this arrangement to cover more owners would require careful consideration.

68. Mr IP Kwok-him considered that the public would accept that the MBIS was for the purpose of enhancing public safety. He shared the view that the Administration could consider bearing the first-time inspection costs, and that the public might find the application procedures for the various financial assistance schemes confusing. The Administration should ensure that it would provide clear information and comprehensive assistance to the owners concerned. He would express support for the Administration to introduce the relevant legislation if the Administration could address these concerns. Otherwise, he was worried that there might be a lot of resistance and disputes during the legislative process.

69. In response, DS(P&L)2 said that the Administration had taken note of and would consider Mr IP Kwok-him's views.

Unauthorized building works

70. Mr KAM Nai-wai noted that there were different views on whether the Administration should take the opportunity of implementing the MBIS to clear unauthorized building works (UBWs) at the same time. As the Administration had indicated that it did not have the intention to do so, owners' corporations would find it difficult to clear UBWs by themselves. He asked how the Administration would handle the situation.

71. In response, DS(P&L)2 said that clearance of UBWs would continue to be carried out based on the existing policy after the implementation of the schemes and the priority of clearance would not be affected. Nevertheless, the Administration would provide technical support to owners for early handling of UBWs which would affect the structural safety of the buildings.

Training for workers

72. Mr CHAN Kam-lam expressed support for the MBIS and MWIS. As the works under the MWIS were simpler than those under the MBIS, he asked whether there was any channel, such as offering courses through the Employees Retraining Board, for experienced workers without formal education to acquire a registration status so that they could carry out works under the MWIS. As the number of such experienced workers was large, providing such a channel for them would increase the supply of registered service providers and facilitate the Administration in meeting its target under the MWIS, and the costs owners had to bear would decrease due to greater competition in the market. More job opportunities would be available to those who wished to undertake such works.

73. In response, DDB said that the Administration's intention was to implement a minor works registration system by the end of 2009. The works under the MWIS, which were relatively simple inspection and maintenance works to windows, would mostly be carried out by Class III registered minor works contractors (RMWCs) under the system. As there would be about 5 000 contractors (companies) eligible for registration as RMWCs to carry out all three classes of minor works, the supply of persons qualified for carrying out inspection and maintenance works under the MWIS would be abundant. Therefore, there would be an adequate supply of RMWCs for the MWIS and job opportunities arising from such minor works would increase. Under the proposed system, apart from those workers possessing the required academic qualifications, workers possessing sufficient relevant experience but without formal education could take top-up courses to become RMWCs. The Administration would coordinate with the Construction Industry Council Training Academy and the Hong Kong Institute of Vocational Education in the provision of courses for those interested in joining the trade.

Other comments

74. Prof Patrick LAU asked whether buildings which had undergone repair works recently would be subject to the requirements of the MBIS.

75. Expressing a similar concern, Mr WONG Kwok-hing asked how the MBIS and the voluntary building classification scheme would dovetail with each other to avoid duplication of efforts. He expressed concern about the legal responsibilities arising from sub-contracting of works under the MBIS and MWIS and suggested that the Administration should not allow sub-contracting of certain works items.

76. The Principal Assistant Secretary for Development (Planning and Lands)³ said that HKHS would launch a voluntary building classification scheme about one year before the implementation of the MBIS. The scope of the scheme was wider than that of the MBIS and would include other aspects such as building management, fire services, lift safety and environmental protection. BD would coordinate with HKHS and buildings accredited under the voluntary building classification scheme would be exempted from requirements of the MBIS during the valid exemption period. As regards legal responsibilities, DDB said that under the Buildings Ordinance, the registered contractor who was the main contractor had to bear the legal responsibilities ultimately even if it had sub-contracted out its works. Professionals had to conduct on-site inspections and carry out inspections at critical stages of the repair works under the MBIS personally. The Administration would consider Mr WONG Kwok-hing's views on sub-contracting of works. Sub-contracting was a historical issue that could not be resolved immediately.

77. Ms Cyd HO enquired about the service life of windows in general and considered that an inspection cycle of five years under the MWIS might be too short for windows which were installed properly and well-maintained. She suggested that the Administration should reconsider whether it was necessary to specify in the legislation the inspection cycle for MWIS to avoid disturbance to citizens. She expressed support for the direction of implementing MBIS because it would enhance public safety. Nevertheless, depending on the reports submitted by service providers alone was inadequate and the Administration should play a role in the certification process so that owners could request the responsible service providers to follow up the works without additional costs if they were found to be unsatisfactory. The Administration should have a mechanism under which it would carry out periodic inspections to ensure that the service providers performed their duties diligently.

78. In response, DDB said that if windows were installed properly and well-maintained, the inspection cycle could be longer than five years. However, the quality of many aluminium windows installed to replace steel windows was unsatisfactory and the conditions of the windows deteriorated seriously within two

to three years in some cases. This would endanger public safety and therefore the Administration proposed an inspection cycle of five years under the MWIS. BD would conduct audit checks to ensure that inspections and maintenance works had been carried out properly by professionals and inspectors. The department would also step up the auditing inspections during the initial stages of implementing the two schemes. The Assistant Director of Buildings added that the service life of aluminium windows would depend on how the windows were used and maintained by the occupants. Without proper use and maintenance, problems could develop well within five years. Therefore, an inspection cycle of five years was reasonable to ensure public safety. BD would carry out 30% audit checks, including site audits, on the reports submitted by the service providers under the MBIS.

III Any other business

79. There being no other business, the meeting ended at 12:45 pm.

Council Business Division 1
Legislative Council Secretariat
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