

立法會
Legislative Council

LC Paper No. CB(1) 2872/09-10
(These minutes have been seen
by the Administration)

Ref : CB1/PL/HG/1

Panel on Housing

Minutes of meeting
held on Monday, 5 July 2010, at 2:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon WONG Kwok-hing, MH (Chairman)
Hon Frederick FUNG Kin-kee, SBS, JP (Deputy Chairman)
Hon Fred LI Wah-ming, SBS, JP
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon LEUNG Yiu-chung
Hon Abraham SHEK Lai-him, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon LEE Wing-tat
Dr Hon Joseph LEE Kok-long, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon CHAN Hak-kan
Hon WONG Kwok-kin, BBS
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung

Public officers attending : **For item III**

Ms Eva CHENG, JP
Secretary for Transport and Housing

Mr D W PESCOD, JP
Permanent Secretary for Transport and Housing (Housing)

Ms Annette LEE, JP
Deputy Secretary for Transport and Housing (Housing)

Ms Cora HO
Assistant Director (Strategic Planning)
Housing Department

For item IV

Mr D W PESCOD, JP
Permanent Secretary for Transport and Housing (Housing)

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

Mr WONG Hung-keung
Chief Civil Engineer
Housing Department

Mr WONG Hang-chi
Deputy Director of Highways

Mr LAU Wai-choi
Acting Chief Highway Engineer/Works
Highways Department

For item V

Ms Eva CHENG, JP
Secretary for Transport and Housing

Mr D W PESCOD, JP
Permanent Secretary for Transport and Housing (Housing)

Ms Annette LEE, JP
Deputy Secretary for Transport and Housing (Housing)

Mr Eugene FUNG
Principal Assistant Secretary for Transport and Housing
(Housing)(Private Housing)

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

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Mrs Mary TANG
Senior Council Secretary (1)2

Miss Mandy POON
Legislative Assistant (1)4

I. Confirmation of minutes, endorsement of the draft report of the Panel for submission to the Legislative Council and matters arising

- | | |
|-----------------------------------|---|
| (LC Paper No. CB(1) 2377/09-10 | — Minutes of the meeting held on 3 May 2010 |
| LC Paper No. CB(1) 2378/09-10 | — Draft report of the Panel for submission to the Legislative Council |
| LC Paper No. CB(1) 2379/09-10(01) | — List of follow-up actions |
| LC Paper No. CB(1) 2379/09-10(02) | — List of outstanding items for discussion) |

The minutes of the meeting held on 3 May 2010 were confirmed.

2. Members endorsed the draft report of the Panel on Housing for the current session, and authorized the Clerk to revise the report to cover discussion at the current meeting before it was presented to the Council on 14 July 2010.

3. The Chairman enquired about the progress of review of the new rent adjustment mechanism for public rental housing. The Secretary for Transport and Housing (STH) said that the subject would be ready for discussion some time next week. The Chairman said that he would consult members on the need to hold a special meeting to discuss the subject.

(Post-meeting note: After consultation with members, a special meeting had been scheduled for 20 July 2010 at 2:30 pm to discuss the new rent adjustment mechanism for public rental housing.)

II. Information paper issued since last meeting

4. Members noted that the following information papers had been issued since last meeting -

- | | |
|---|---|
| LC Paper No. CB(1) 2263/09-10 | — Referral from the Complaints Division regarding application for public rental housing flats by non-elderly singletons (Restricted to Members) |
| LC Paper Nos. CB(1) 2317/09-10(01) and (02) | — Letter from Hon LEE Wing-tat together with the Administration's response regarding the media coverage of the self-occupied residential property offered for sale by the Secretary for Transport and Housing |

III. Public consultation on subsidising home ownership

(LC Paper No. CB(1) 2409/09-10(01) — Administration's paper on public consultation on subsidizing home ownership)

Relevant papers

(LC Paper No. CB(1) 2345/09-10(01) — Hyperlinks of data appearing in the consultation framework provided by the Administration

FS26/09-10 — List of papers (with hyperlinks) relating to land supply, subsidized housing schemes and housing loan schemes submitted to the Legislative Council and its committees in the past five years prepared by the Legislative Council Secretariat upon members' request)

5. STH said that a public consultation was being undertaken by the Transport and Housing Bureau (THB) to gauge views from stakeholders and members of the public on issues relevant to subsidizing home ownership. To encourage participation, various channels, including consultation sessions, focus group meetings, and E-engagement platforms, had been set up to enable the public to express their views on the subject. The views collected so far indicated that there appeared no dispute on the need for the provision of sufficient land for housing. This was in line with the Government's policy to respond to the residential property demand through the supply of land, with the Application List System as the main axle supplemented by flexible improvement measures and land auctions from time to time so as to increase the land supply. While there was general acceptance that public rental housing (PRH) should continue to be provided to low-income families with genuine housing needs, and that the Government should not subsidize buyers to purchase luxurious properties, there were divided views as to whether the Government should help those caught in between. Those who supported subsidizing home ownership pointed out that the escalating property prices were beyond the affordability of the general public. Hence, there was a need for the Government to assist the public to achieve home ownership through various means, such as tax concessions as well as re-launching of the Home Ownership Scheme (HOS) and various housing loan schemes. Those who were against subsidizing home ownership held the view that home ownership was not the only way to meet housing needs. Besides, the provision of subsidies for home ownership might not benefit homebuyers since property prices were subject to fluctuations. The provision of subsidies for home ownership would also be unfair to those who tried to manage on their own. The Assistant Director of Housing (Strategic Planning) (ADH(SP)) gave a power-point presentation on the public

consultation on subsidizing home ownership.

6. Referring to the long-term housing strategies formulated by the Administration in the 1980s and 1990s, Mr Frederick FUNG opined that the then housing strategies were based on housing needs rather than impacts on the property market as nowadays. The present housing policy tended to incline to large developers as only large lots of land were put on sale. He stressed that housing was not a commodity but a need. It would be absurd to see that people could not afford to buy their own homes after a life-long career, given the high Gross Domestic Product in Hong Kong. This had reflected badly on the governance of Hong Kong. While supporting the re-launching of HOS, Mr FUNG opined that the revitalization of HOS secondary market was not worth supporting as this would prompt speculation and push up the prices of secondary HOS flats. He emphasized that as HOS aimed to help the low-income families to achieve home ownership, HOS flats should not be traded for a profit in the open market. Given the lead time of five to seven years for HOS production, there was a need to plan ahead for the re-launching of HOS.

7. Mr CHAN Kam-lam concurred that housing was not a commodity but a need. Therefore, the Government should ensure the healthy and stable development of the property market through sufficient supply of land for both public and private housing. The Government's policy to meet the demand of residential properties through supply of land, with the Application List System as the main axle supplemented by flexible improvement measures and land auctions from time to time so as to increase land supply was a step in the right direction. However, the Government should also re-consider the propriety of the repositioned housing policy of withdrawing from its role as property developer, and take measures to deal with the latest developments in the private residential market where the supply of affordable flats was limited. By way of illustration, flats costing \$2 million or below were mostly older flats built some 40 years ago. Hence, he would support the re-launching of HOS to provide a suitable number of HOS flats, say 5 000 flats per year, to meet public demand. The provision of HOS flats should not affect the land resources for PRH but would hasten the recovery of PRH flats. While supporting the revitalization of the HOS secondary market, Mr CHAN held the view that this would not be able to substantially increase the supply of small to medium sized flats. In view of the recent surge in property prices which might lead to the potential risk of a property bubble, measures should be taken to curb speculative activities, including those involving the trading of secondary HOS flats, in addition to the nine new enhancement measures to strengthen the regulation of the sales of first hand private residential properties and the 12 new requirements on show flats (the nine measures and 12 requirements).

8. Mr LEUNG Yiu-chung said that he supported the re-launching of HOS but not the revitalization of HOS secondary market. He pointed out that speculation had already taken place before the revitalization of HOS secondary market. Given that 70% (or some 225 000) of the 320 000 HOS flats were still pending payment of premium, this had shown that most HOS flats were for self occupation rather than trading. He therefore urged the Government to immediately halt the revitalization of HOS secondary market. He further pointed out that the average waiting time for PRH was not three years since many applicants, particularly those singletons, had to

wait a much longer time. Many PRH applicants had also left the queue due to the stringent eligibility criteria for PRH.

9. Professor Patrick LAU declared interest as a member of the Hong Kong Housing Authority (HA). He said that public housing should be dealt with separately from private housing. While supporting the need to increase the production of public housing, he questioned the rationale for revitalizing the HOS secondary market to enable HOS owners to sell their flats after payment of premium. He was concerned that such an arrangement would put secondary HOS flats on a par with private flats. STH said that HA's Subsidized Housing Committee was looking into measures to facilitate existing HOS owners in financing the payment of premium, so that they could sell or lease their HOS flats and upgrade to private properties. This could be done through the provision of a loan guarantee scheme by the Hong Kong Mortgage Corporation to facilitate payment of premium by installment. The proposed scheme would help improve the flexibility of financing arrangements, thereby increasing the turnover of HOS flats without encouraging speculative activities.

10. Mr CHAN Hak-kan held the view that instead of consulting the public on subsidizing home ownership, the Administration should work out concrete measures to resolve the housing problem. While agreeing that PRH should be provided to low-income families, he opined that subsidized home ownership schemes should also be introduced for those who could not afford private housing but were ineligible for PRH. He pointed out that about 30% of people were living in rented private accommodation of very high rents. By way of illustration, the monthly rent of a 300-square feet flat in Shek Tong Tsui cost about \$9,000. This was beyond the affordability of a young couple, let alone future annual upward rent adjustments. The provision of subsidized home ownership schemes would be able to meet the housing needs of this group. He added that the Home Starter Loan Scheme (HSL) was particularly useful to help the younger generation to achieve home ownership.

11. Mr Fred LI was disappointed at the public consultation document since many of the questions raised had already been answered in earlier consultation exercises on housing issues. He held the view that the Government should review the housing policy taking into account the latest development in the property market, such as the over-subscription rate of the sale of surplus HOS flats, in deciding the need for re-launching HOS. Mr LEE Wing-tat said that he did not have much expectation on the public consultation exercise. He was under the impression that the public consultation was only meant to allay public concerns about the surging property market for the time being with a hope that it would cool down later in the year when interest rates went up. He was dissatisfied that the Government had retreated from providing subsidized home ownership flats and let developers to take the lead. This had explained why developers could manipulate the property market through control of flat supply, which had in turn intensified the housing problem. He also disagreed that HOS would have adverse impact on the property market, given that HOS had been in existence since the 1970s when the property market flourished. Despite that there was general consensus on the need for re-launching HOS in the interest of the general community, it seemed that the Government had already decided against the re-launching of HOS before the public consultation. In reply, STH stressed that there

was no forgone conclusion on the re-launching of HOS. The Government would need to be prudent and should seek public views on subsidizing home ownership before introducing any changes to the existing housing policies. Given the prevailing low interest rate, inflow of funds and high inflation rate, the Government would need to do more to ensure a steady development of the property market taking into account various factors, including the subscription rates of various phases of the sale of surplus HOS flats.

12. Mr WONG Kwok-kin said that he did have expectation on the consultation exercise. While agreeing to the need to gauge public views on subsidizing home ownership, he considered it necessary for the Government to explain the rationale behind the subsidy and its long-term housing policy. It should also work out measures to meet the housing needs of the sandwich class which were not eligible for PRH but could not afford private accommodation. Apart from subsidized home ownership schemes, consideration should also be given to providing rental housing for the sandwich class. On revitalization of HOS secondary market, Mr WONG said that he would not object to the proposal but was concerned about the surge in housing demand as a result of the increase in number of HOS owners entering the private property market after disposal of their HOS flats. Hence, there was a need for more detailed studies on the supply and demand of housing resulting from the re-vitalization of HOS secondary market.

13. Mr Abraham SHEK said that developers had an open mind on subsidizing home ownership and would not intervene in Government policies. The recent surge in property prices was probably due to the low interest rates and limited land supply. He personally felt that the re-launching of HOS would not have impact on the private property market. Through the provision of a safety net for the sandwich class which could not afford properties in the private sector, HOS would help maintain a steady and stable development of the property market. However, the public should be consulted on the need for subsidizing home ownership and how this should be taken forward.

14. The Chairman opined that the housing policy before 2002 was very effective in meeting housing needs. However, the housing policy was repositioned in 2002 with a view to revitalizing the property market. As a result, many popular housing measures, including HOS, were halted. The recent surge in property prices had prompted the Government to conduct public consultation on subsidizing home ownership. Members belonging to the Federation of Trade Unions were supportive of the re-launching of HOS to provide a suitable number of HOS flats, say about 3 000 to 5 000 flats per year, to meet the public aspiration for home ownership. Apart from HOS, consideration should also be given to re-launching the Tenants Purchase Scheme (TPS) which had been very useful in assisting PRH tenants to achieve home ownership and foster closer family ties among the older and younger generations. He urged the Administration to seriously consider members' views regarding the re-launching of HOS, TPS and HSLs and include these initiatives in the upcoming Policy Address in October 2010. There was also a need for the Administration to formulate a long-term housing strategy to meet the housing needs and aspiration of the general public.

15. In response to members' remarks on long-term housing strategy, STH said that there were various levels in terms of housing provision: private flats, PRH and subsidized flats. In respect of flats in the private property market, their provision was largely dependent on the market supply of flats. As for PRH, HA continued its construction programme with an aim to maintaining the average waiting time at around three years. On subsidized flats, it was one of the foci of the present consultation exercise. Since over 80% of property transactions were in the secondary market, it was clear that the secondary market rather than the first-hand market was the major source of flats for homebuyers. This was one of the reasons behind the revitalization of HOS secondary market. On subsidizing home ownership, the Administration was consulting the public on whether this should be taken forward and if so, how. If measures to subsidize home ownership were to be provided, the target group had to be identified but the prerequisite should be that the applicants could afford mortgage payment in the longer term. Provision of any form of subsidized home ownership would also lead to further discussion on its treatment for Green Form/White Form buyers. To ensure extensive participation, THB would engage the public and stakeholders through a variety of channels, including consultation sessions, focus group meetings and E-engagement platforms. The views collected would be presented to the Chief Executive for preparation of the 2010-2011 Policy Address. A summary of views gathered would be made available to members for reference in due course.

IV. **645TH – Sai Sha Road widening between Kam Ying Road and Trunk Road T7 junction**

(LC Paper No. CB(1) 2379/09-10(03) — Administration's paper on 645TH – Sai Sha Road widening between Kam Ying Road and Trunk Road T7 junction)

16. The Permanent Secretary for Transport and Housing (Housing) briefed members on the proposal to increase the approved project estimate of **645TH** - Sai Sha Road widening between Kam Ying Road and Trunk Road T7 junction by \$8.9 million, from \$122.5 million to \$131.4 million in money-of-the-day prices, to cover the additional costs of the works under the project. The Deputy Director of Highways (DDHy) further explained the scope of 645TH and the justifications for increasing the approved project estimate.

17. In response to Professor Patrick LAU's enquiry, DDHy confirmed that lifts were provided at both sides of the footbridges at Lee On Estate.

18. The Chairman concluded that members did not raise objection to the submission of the proposal for consideration by the Public Works Subcommittee with a view to seeking approval from the Finance Committee later.

V. Any other business

- Hon LEE Wing-tat's request for production of correspondences between the Lands Department and the developer of 39 Conduit Road in relation to the transactions of the property

(LC Paper No. CB(1) 2365/09-10(01) -- Administration's response to the letter from Hon LEE Wing-tat requesting for the provision of correspondences between LD and the developer of 39 Conduit Road regarding the alleged cancellation of first-hand sale of 20 flats
and CB(1) 2365/09-10(02)

LC Paper No. CB(1) 2461/09-10(01) -- Letters to Henderson Land Development Company Limited (Henderson) issued by LD regarding the transactions involving 24 units of 39 Conduit Road (English version only)

LC Paper No. CB(1) 2461/09-10(02) -- Response from Henderson to CB(1) 2461/09-10(01) (English version only)

19. The Chairman said that the request for discussion of the alleged cancellation of first-hand sales of 20 units of 39 Conduit Road was raised by Mr LEE Wing-tat. Since the Henderson Land Development Company Limited (Henderson) had earlier requested for non-disclosure of its correspondence with the Lands Department (LandsD) regarding the transactions involving 24 units of 39 Conduit Road, the session might need to be held in camera if members wished to refer to the correspondence. However, as he was given to understand at around 10:15 am this morning that the correspondence provided by Henderson could be disclosed, he decided that the session should be open to the public. In parallel, the Administration had also provided the letters issued to Henderson by LandsD. All the correspondence had been distributed to Members before the meeting.

20. STH said that the Government would not tolerate deceptive transactions as well as the release of misleading and incomplete information on property sales. To strengthen the regulation of the sales of first-hand private residential properties, new enhancement measures had been introduced to ensure a fair and transparent property market. Arising from the public concern on large-scale omission of floor numbers in 39 Conduit Road, the Buildings Department had promulgated a new floor numbering system through the Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers (the Practice Note) to require developers to number the floors in a reasonable way to avoid unreasonable floor numbering. To further enhance the transparency of floor numbering information in the sales brochures, the Transport and Housing Bureau (THB) had also required

developers to set out the floor numbering information clearly in the section on “Basic Information of the Development” in the front part of sales brochures since December 2009. In addition, THB was liaising with the Real Estate Developers Association (REDA) to further require developers to make public the estimated date of completion of Assignment of individual transactions when making public transaction information within five working days, and to make public cancelled transactions soon after the cancellation had taken place. In view of the public concern about the various transactions of 39 Conduit Road, LandsD had written to Henderson several times to seek clarification in this respect. Under normal circumstances, the Administration would not disclose information relating to a case which was under investigation by law enforcement agencies, lest it would adversely affect and prejudice ongoing investigations or undermine any future actions that Government might take upon completion of the investigations. The decision by Henderson to release their letters had however changed the situation by removing one of the major legal considerations, i.e. the possibility of any prejudicial effect on Henderson resulting from the disclosure of the correspondence. In view of Henderson's decision and as it was important that the Legislative Council (LegCo) and the public should be given the full picture of the exchange of correspondence, the Administration had decided to pass the letters sent by LandsD to Henderson in their entirety for Members' reference. Relevant Government agencies, including the Police, would continue to investigate into the matter.

21. The Chairman invited the Assist Legal Advisor 1 (ALA1) to explain the scope of discussion by members pending the ongoing investigations. ALA1 said that there were past cases where LegCo had conducted inquiries in parallel with investigations by relevant government departments. While the Rules of Procedure did not prohibit discussion on a case which was under Police investigation, rule 41(2) required that reference should not be made to a case pending in a court of law in such a way as might prejudice that case. As there was an on going investigation which might lead to court proceedings, care should be taken to avoid making comments or drawing conclusions lest these might create adverse publicity which would prejudice the decisions of the court. In gist, LegCo should avoid giving the impression that it was intervening with the decisions of the court.

22. Given the bulk of the correspondence between Henderson and LandsD, and the fact that the correspondence was just received hours before the meeting, Mr LEE Wing-tat said that members would need more time to go through all the correspondence. He proposed that a special meeting should be held to discuss issues relating to the transactions involving 24 units of 39 Conduit Road, and that Henderson should be invited to attend the special meeting. He pointed out that the ongoing investigation by relevant departments should not constrain members in discussing the matter and vice versa. Referring to the correspondence, Mr LEE opined that the questions raised by LandsD were very narrow in scope. Besides, LandsD had not demanded answer from Henderson as to why it only applied Clause 11(3) of the Agreement on Sales and Purchase (ASP) to forfeit the 5% deposit, and not Clause 16(3) which entitled it to forfeit all sums paid by the purchaser and recover any deficiency in price and expenses for resale from the purchaser as damages. Given the high sales price of 39 Conduit Road, the deficiency in price for the 20 units

concerned could range from \$0.8 billion to \$1 billion. He asked if LandsD had questioned Henderson whether the practice adopted in dealing with cancellation of transactions of 39 Conduit Road applied to all other cancelled transactions and if not, the reasons for adopting a different practice for 39 Conduit Road. Given the substantial amount involved, there was also question why the agreements to extend the completion of assignments of the units concerned were only made verbally in February 2010, and confirmed in writing in April 2010. Mr LEE pointed out that under normal circumstances, the vendor would ascertain if purchasers were able to secure mortgages for the properties based on valuation. However, no enquiries had been made by Henderson in the present case.

23. STH said that the questions raised by Mr LEE were directed at Henderson and the Administration was not in a position to answer. As investigations by relevant Government agencies, including the Police, were underway, it was not appropriate for the Administration to comment on the case. Mr LEE Wing-tat asked if LandsD was satisfied with the answers given by Henderson. STH said that LandsD would follow up on land administration matters, while the Police on possible fraudulent acts. The Administration was not in a position to discuss these issues at the present stage.

24. Mr CHAN Kam-lam said that the Panel on Financial Affairs (FA Panel) also discussed issues relating to the property transactions of 39 Conduit Road and disclosure of information by the listed property developer at its meeting this morning. He remarked that the provision of correspondence exchanges by LandsD and Henderson had enhanced the transparency of the transactions. Based on the information provided, members were made aware of the terms of ASPs and some of the transaction details. Given that these were private transactions, and that relevant departments were conducting investigations on these transactions, the FA Panel considered it inappropriate to intervene or invite the developer to attend Panel meetings to further discuss the matter at the present stage. The FA Panel would decide on the follow-up actions to be taken upon completion of investigation by relevant department. As regards Mr LEE Wing-tat's query on why Henderson had not forfeited other sums paid by purchasers in addition to the 5% deposit, Mr CHAN said that this was a private deal between the vendor and purchaser. By agreeing to cancel the agreements, Henderson would have a free hand to deal with the properties and to maximize the return amid a prosperous luxury property market. Expressing similar views, Mr Vincent FANG agreed that the release of correspondence exchanges between LandsD and Henderson had enhanced transparency of the transactions. In view of the ongoing investigations, he concurred that the Administration was not in a position to comment on the case. If members were not satisfied with the outcome of investigations, they could then decide on the means to follow-up.

25. Mr Alan LEONG said that he could not agree to Mr CHAN Kam-lam's view. Referring to the letters between Henderson and LandsD dated 28 and 30 June 2010 respectively, he noted that while both Henderson and LandsD were prepared to pass the correspondence exchanges to members, it was only hours before the meeting when members were notified of the availability of these correspondence exchanges, leaving no time for members to study the case before the meeting. He added that the

case was quite extraordinary in that the sales price of 39 Conduit Road were exceptionally high which were way above other developments in the proximity. Henderson was very lenient not to forfeit the deposit right away in accordance with the terms of ASPs when the purchasers failed to complete the transactions. Neither did Henderson intend to recover any deficiency in prices and expenses for resale from the purchasers. He enquired about the departments which had initiated investigations into the case and the time frames for completion of investigation. Expressing similar concerns, Mr WONG Kwok-kin said that LegCo might need to decide whether it should intervene at this stage or leave the matter to the relevant departments to investigate before taking up the case. Meanwhile, he requested the Administration to provide a report on the preliminary findings of the case. STH said that as Henderson had earlier requested for non-disclosure of its correspondences, the Administration had to be prudent in releasing the information on account of legal considerations. The Permanent Secretary for Transport and Housing (Housing) (PSTH(H)) added that when Henderson indicated its intention to release its letters, it was just an indication and the Administration could only release LandsD's letters after Henderson had released its letters. As regards the investigations, STH reiterated that relevant Government agencies, including the Police, were looking into the case and hence she was not in a position to reveal further details lest this would undermine the ongoing investigations. As it would take time to collect evidence on the case, it was not practical to set a timeframe for the completion of the investigations. Under such circumstances, Mr WONG said that he would support the setting up a subcommittee to look into the case. The Chairman said that this might not be necessary as the Panel on Housing would follow up the case. Mr LEONG said that he would support Mr LEE Wing-tat's suggestion of holding a special meeting to follow up the case.

26. Mr Abraham SHEK declared that he was the Member returned from the functional constituency of real estate and construction. He pointed out that the prices of properties in Hong Kong were driven by market force, and that transactions were entered into by willing sellers and willing buyers in a free market. Likewise, it remained a commercial decision on the part of a vendor on whether further actions should be taken to recover the deficiency in prices and expenses for resale from purchasers as damages upon cancellation of transactions. Many developers had not chosen to do so, even during the property slump, because many of these transactions involved shell companies (with an issued capital of HK\$1) which were quite unlikely to be able to pay any substantial damages as none of them had any real assets. It would not be sensible to incur legal costs to sue the purchasing companies. In the case of 39 Conduit Road, Mr SHEK opined that if there were alleged manipulation of prices and provision of false information in the course of transactions, which were indeed criminal offences, these would be for the Police and other relevant departments to investigate. If members were not satisfied with the outcome of investigations, they could then decide on the need for inquiry into the case. He stressed that LegCo was responsible for monitoring the operation of the Government, but not private enterprises which were governed by relevant laws and regulations with penalties for non-compliance. While Henderson was not able to provide the information earlier before the weekend, it had endeavoured to provide all the correspondence exchanges before the meeting. Hence, it would not be necessary for LegCo to invoke the Legislative Council (Powers and Privileges) Ordinance

(Cap. 382) to order the production of all the correspondence between LandsD and Henderson. He also urged members to read through the correspondence exchanges which had already provided answers to many questions raised by members.

27. Given that high property prices had adversely affected the economy of Hong Kong, Mr LEUNG Kwok-hung supported the criminal investigations being conducted by Police on the case. He opined that the prevailing policies to allow shell companies with a paid up capital of \$1 to hold properties, and deferral of completion of assignment for uncompleted properties had encouraged property speculation. Since Henderson was just one of the many developers who participated in property speculation, he enquired about the extent of speculative activities conducted by developers in Hong Kong, and whether legislation would be introduced to prevent property speculation. STH said that property transactions were registered with the Land Registry and available to the public. To improve the transparency of transactions, THB was liaising with REDA to further require developers to make public the estimated date of completion of assignment of individual transactions when making public transaction information within five working days, and to make public cancelled transactions soon after the cancellation had taken place.

(At this juncture, the Chairman suggested and members agreed to extend the meeting for 15 minutes until 4:45 pm.)

28. Mr LEUNG Yiu-chung said that 39 Conduit Road had given rise to much controversy on account of its high sales price, large-scale omission of floor numbers and cancellation of transactions without recovery of deficiency in prices etc. He enquired whether the Administration had raised questions on these issues, and whether it was satisfied with the answers provided. He also enquired whether further actions, including the introduction of legislation to protect consumers' interest, would be taken by the Administration. STH said that the problem of omission of floor numbers had been dealt with by the Buildings Department through the introduction of a new floor numbering system under the Practice Note. Meanwhile, relevant Government agencies, including the Police, were following up on issues relating to the cancelled transactions of 39 Conduit Road. It was therefore inappropriate for the Administration to comment on the case.

29. Mr James TO said that he wanted to make sure that LandsD had exercised due diligence in monitoring the transactions of 39 Conduit Road. Referring to Henderson's letter to LandsD dated 7 April 2010, Mr TO noted that the former had informed LandsD that agreement had been reached with purchasers to extend the completion of assignment of the 20 units from 16 April 2010 to 16 June 2010. However, the attachments to the vendor's letter dated 24 April 2010 had revealed that four of the requests for extension, notably from the purchasers of flats A and B of 32nd and 33rd floors, were only made on 8 April 2010 i.e. one day after the vendor's agreement for extension. He enquired if LandsD had queried the irregularity as he was unable to find any request for clarification on the irregularity by LandsD. STH said that the Administration would closely monitor the investigation work. Further clarification on the details of the transactions would be sought in the course of investigation. PSTH(H) reiterated that the Administration was not in a position to

comment on Henderson's letters lest it would prejudice the ongoing investigations.

30. The Chairman sought members' views on Mr LEE Wing-tat's requests to hold a special meeting, and to invite representatives from Henderson to attend for discussion of the subject. Mr James TO said that there might be a need to invite the purchasers who also had much grievance about the transactions according to the correspondence exchanges and the media reports. The Chairman put the requests to vote. Of the members present at the meeting, seven voted for and one voted against the requests. The Chairman declared that a special meeting would be held, and that purchasers concerned as well as representatives from the Administration and Henderson would be invited to attend for discussion.

(Post-meeting note: With the concurrence of the Chairman, the special meeting would be held on Monday, 12 July 2010, at 8:30 am.)

31. There being no other business, the meeting ended at 4:45 pm.

Council Business Division 1
Legislative Council Secretariat
21 September 2010