

立法會
Legislative Council

LC Paper No. CB(1) 3072/10-11
(These minutes have been seen
by the Administration)

Ref : CB1/PL/HG/1

Panel on Housing

Minutes of special meeting
held on Tuesday, 26 July 2011, at 10:45 am
in the Chamber of the Legislative Council Building

Members present : Hon LEE Wing-tat (Chairman)
Hon WONG Kwok-hing, MH (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Fred LI Wah-ming, SBS, JP
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Dr Hon Joseph LEE Kok-long, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon CHAN Hak-kan

Members absent : Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEUNG Yiu-chung
Hon WONG Kwok-kin, BBS
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung

Public officers attending : **For item I**
Ms Annette LEE, JP
Acting Permanent Secretary for Transport and Housing
(Housing)

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

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

Mrs Connie LAI
Chief Planning Officer
Housing Department

Mr Thomas CHOW, JP
Permanent Secretary for Development (Planning and
Lands)

Ms Gracie FOO, JP
Deputy Secretary for Development (Planning and Lands)1

Ms Rita LAI
Assistant Director (Headquarters)
Lands Department

Ms Phyllis LI
Assistant Director of Planning (Special Duties)
Planning Department

For item II

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

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

Mr TANG Ping-kwong, JP
Principal Assistant Secretary for Transport and Housing
(Housing) (Private Housing) (Special Duties)

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

Staff in attendance : Mrs Mary TANG
Senior Council Secretary (1)1

Miss Mandy POON
Legislative Assistant (1)1

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I. Land supply for Housing

- (LC Paper No. CB(1) 2778/10-11(01) — Paper on land supply for Housing provided by the Transport and Housing Bureau
- LC Paper No. CB(1) 2778/10-11(02) — Paper on supply of private housing land provided by the Development Bureau
- LC Paper No. CB(1) 2805/10-11(01) — Paper on land supply for Housing prepared by the Legislative Council Secretariat (updated background brief))

The Permanent Secretary for Development (Planning and Lands) (PS(PL)) briefed members on the latest situation regarding the land supply for private housing. The Acting Permanent Secretary for Transport and Housing (Housing) (Atg PSTH(H)) explained the latest position in the provision of public rental housing (PRH) and private residential flats.

Private housing

2. Referring to the potential major supply of housing land in the medium to long term (Annex to LC Paper No. CB(1) 2778/10-11(02)), Mr CHAN Kam-lam noted that apart from the housing land at Kai Tak Development Area which would be available from 2013, the next major supply of housing land would not be ready until completion of the North East New Territories New Development Areas (NENT NDAs) and the Hung Shui Kiu NDAs from 2018 and onwards. He was concerned about the gap in supply for housing land during the interim. To ensure the stable and healthy development of the property market, there was a need for a strategic review of land production, including public consultation on increasing land supply through reclamation. Expressing similar concerns, Mr Vincent FANG opined that more land should be made available through the development of new towns, and that more concrete measures in the short, medium and long term should be identified to meet the housing needs of the growing population. As property prices would rise if there was no certainty on the supply of land and housing to meet market demand, efforts should be made to apprise the public of the availability of land in the coming years so that they could plan ahead for home purchase.

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3. In response, PS(PL) said that making available land for housing development was an on-going process. Various planning and engineering studies had been or were being conducted and other statutory processes were in progress to prepare land for housing use. As and when government sites for private housing were ready, they would be included in the land sale list. The Administration would continue to closely monitor market developments in drawing up land sale programmes. Apart from Government land (including supply from NENT NDA, Hung Shui Kiu NDA and Tung Chung remaining areas in the medium to long term), there were other sources of housing land supply which included private redevelopment projects, railway property development projects and property projects of the Urban Renewal Authority. As a large percentage of land in Hong Kong had been designated as country parks or nature conservation areas, the Administration would need to explore new ways to provide land in the long run to meet the land demand for economic development, public facilities and housing. Public consultation on the two possible options of land reclamation and rock cavern development was planned to commence in the fourth quarter of 2011.

4. Given that the Kai Tak Development Area (KTDA) was situated on a flat piece of land with no geological constraints, Professor Patrick LAU queried the long lead time for developing the site which was scheduled for completion in 2019. He also asked if consideration could be given to increasing the density of development of KTDA to meet demand. PS(PL) said that KTDA had undergone three rounds of public consultation and much time had been taken to reach a consensus in the community on its development, which included the shelving of the proposed reclamation. There was also a need to provide the necessary supporting infrastructure which was not readily available since KTDA was previously used as an airport. Besides, the construction schedule of KTDA would need to take into account the development of the Shatin-Central Link (SCL). Nonetheless, the Administration had pressed ahead with infrastructure works in order to release all the private housing sites at KTDA for sale by 2019. It was expected that the first batch of private housing sites at KTD would be available for sale in 2013. Meanwhile, some PRH estates were already under construction.

5. Ir Dr Raymond HO did not accept that the Administration used SCL as an excuse for the delay of KTDA. Given the slow progress of development of NENT NDAs (including Kwu Tung North, Fanling North and Ping Che/Ta Kwu Ling NDAs), and the remoteness in land supply from land reclamation and rock cavern development, he was concerned that the lack of supply of housing land might further push up property prices beyond the affordability of the general community. He considered it imminent for the Administration to formulate a policy on the use of agricultural land. PS(PL) said that the Administration had implemented a series of short, medium and long term measures to increase land supply. Apart from NDAs, Tung Chung remaining areas and the study on

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quarry sites, the Administration would continue to work on opportunities for supplying housing land through redevelopment in the Metro Area. The industrial land review, for example, had pointed to the release of government as well as private land for residential developments. As regards agricultural land, PS(PL) said that this was a complicated issue attracting diverse views in the community.

6. The Chairman expressed concern about the lack of information on the future supply of private residential flats. Apart from the estimated supply of 35 400 private residential flats in 2011-2012, no projections on flat production in the private sector in 2013 and beyond had been provided. To enhance public confidence in the supply of private residential flats, he considered it necessary for the Administration to provide a five-year rolling programme on land production for private housing, similar to that of the five-year rolling Public Housing Construction Programme (PHCP). PS(PL) said that the five-year rolling PHCP prepared by the Transport and Housing Bureau (THB) only provided a forecast on the number of PRH units to be produced in the next five years, and not the supply of public housing land. As PHCP was based on the housing projects in which construction was underway or about to commence, there was a higher degree of certainty on the delivery of PRH flats. However, it was more difficult to confirm the future land supply for private housing given the complexities and uncertainties such as those involving advanced planning work, provision of infrastructure, statutory processes for change of land use and the time required for resolving objections in the process. To avoid confusing the property market, the Administration would refrain from providing a forecast on the supply of private housing land. Instead, the Administration would announce the land sale programme each year to provide information on the availability of sites.

7. The Chairman was not convinced of the Administration's response. He recalled that back in the colonial days, there used to be a five-year rolling programme on land production for private housing. He cautioned that the uncertainty relating to supply of private housing land was not conducive to the stable and healthy development of the property market. He said that he would continue to pursue the subject in the next legislative session. While acknowledging the difficulty in providing a five-year rolling programme on supply of private housing land, Mr James TO held the view that the Administration should at least provide a working target on land production so that the public would know that efforts had been made to meet the demand for housing. To enhance public confidence, information on the possible locations and the number of flats to be produced should be provided as well. PS(PL) said that the Chief Executive had already announced in his 2010-2011 Policy Address the working target of making available land for an average of some 20 000 private residential flats per annum in the next 10 years. Strenuous efforts had since been made to achieve the target. Based on the Housing Department's statistics, which were a source of public information, it was estimated that around

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56 000 private residential flats would be made available in the next three or four years in the primary market. The Administration would endeavour to enhance transparency in the provision of information.

8. Mr Frederick FUNG considered the annual production of some 20 000 private residential flats inadequate to meet the increasing demand, particularly from Mainland investors. He supported the establishment of a dedicated interdepartmental task force to identify more land for housing. Consideration should also be given to re-organizing the Development Bureau (DevB) and THB such that land and housing portfolios should be put under a single new policy bureau. PS(PL) said that the working target of making available land for the production of, on average, some 20 000 private residential flats per annum was set having regard to past data according to which on average some 18 500 private first-hand residential flats were sold each year in the past 10 years. He added that there had been close cooperation between DevB and THB on the land supply for private and public housing. By way of illustration, it had been agreed that the split in flat production between private and public housing at NENT NDA should be set at the ratio of about six to four. Atg PSTH(H) supplemented that the Financial Secretary now chaired the Steering Committee on Housing Land Supply to coordinate the efforts of all departments concerned to ensure that issues relating to housing land would be dealt with as a matter of priority in order to provide a stable and adequate supply of land for both PRH and private residential flats.

9. While acknowledging that the inclusion of restrictions on the minimum number and size of flats to be built in the land sale conditions was aimed at increasing the supply of small and medium-sized flats, Mr Fred LI opined that this could not help curb the surging property prices. For instance, flats at Queen's Cube (a private residential development in Wanchai comprising mainly small flats jointly developed by the Urban Renewal Authority and a private developer) were sold at the price range of \$15,000 to \$18,000 per square feet for a 400-square feet apartment. In view of the high sale price, many units had remained unsold since the development was put up for sale over a year, as the property prices were beyond the affordability of the general public. He was concerned that the same situation would occur if the residential sites with flat size restrictions were sold at high prices lest developers would have to sell the completed flats at high prices in order to make a profit. PS(PL) clarified that the purpose of specifying flat size restrictions of residential sites was meant to increase the supply of small and medium-sized flats and not to regulate property prices which would be set by developers to reflect the prevailing market situation. Following the announcement of the restrictions, the West Rail Property Development Limited (WRPDL) had agreed to re-design six West Rail property development projects to increase the supply of small and medium-sized flats. WRPDL had submitted to the Town Planning Board the revised schemes for the development projects at Nam Cheong Station, Tsuen Wan West Station TW 5

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(Bayside), Tsuen Wan West Station TW 5 (Cityside) and Long Ping Station (North). It was expected that the number of small and medium-sized flats below 50 square metres under these projects would increase by two folds from 2 400 to 4 900.

10. Mr Fred LI expressed concern that developers might get round the restrictions by selling two adjacent small units with the non-structural partitioning walls removed to form a large unit. He enquired if measures could be introduced to prevent such abuse. The Assistant Director of Lands (Headquarters) (ADL(HQ)) said that Lands Department (LandsD) would ensure compliance with all the land lease conditions, including the restrictions on the number and size of flats to be built, in scrutinizing building plans for approval in the development stage and before granting the Certificates of Compliance upon completion of the developments. PS(PL) added that depending on the contents of the land lease, the merging of adjacent flats to form larger flats might contravene the land lease conditions. In any case, he assured members that the lease conditions would be carefully drafted in the relevant documents to reflect the requirements. Ir Dr Raymond HO however cautioned that prohibiting the merging of adjacent flats could be problematic since many owners would object to such arrangement.

11. In reply to Mr Fred LI's further enquiry on whether consideration could be given to restricting the sale of certain flats to local residents only, Atg PSTH(H) said that as an international financial centre and a free and open economy, Hong Kong attracted a lot of overseas investments. As the proposed restriction on property ownership would carry serious implications and would have impact on the economy of Hong Kong, this had to be looked into very carefully.

12. Professor Patrick LAU noted that following the judgment on the judicial review of the air quality assessment of the Hong Kong section of the Hong Kong-Zhuhai-Macao Bridge project, a number of property owners in the vicinity of KTDA had raised objection to the development on grounds of its environment impact. It was likely that similar objections would be raised against the West Rail property development projects. He wished to point out that the environmental impact assessment mechanism should not be used as a tool to deter developments.

Public housing

13. Mr CHAN Kam-lam noted that the forecast production of new PRH was 75 000 flats in the five-year period between 2011-2012 and 2015-2016. However, no further forecast had been made beyond 2015-2016. He considered that more long-term planning on PRH production should be made. Atg PSTH(H) said that forecast production of new PRH units was based on the five-year rolling PHCP adjusted on an annual basis taking into account the

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demand situation and availability of land. The Deputy Director of Housing (Development & Construction) (DDH(D&C)) added that the level of production of 75 000 new PRH flats over the next five years, averaging about 15 000 flats per year, together with the recovered flats from the existing stock, would enable the Hong Kong Housing Authority (HA) to maintain the average waiting time (AWT) for general PRH applicants at around three years. To ensure an adequate and steady supply of suitable land for PRH development, the Administration would continue to liaise closely with concerned bureaux, Government departments, district councils and local communities to identify suitable sites in different parts of the territory for PRH development.

14. Mr Frederick FUNG was of the view that the production of 75 000 PRH units in the next five years would not be sufficient to meet the needs of the 150 000 applicants on the Waiting List. He considered that at least 25 000 PRH units should be built each year. He also expressed concern that the Administration had not been proactive in developing new towns for PRH production, as evidenced by the fact that about 60% of the new PRH flats to be produced in the next five years were in urban areas. To ensure a healthy development of PRH, there should be an equal distribution of PRH units in urban areas, extended urban areas and the New Territories. Atg PSTH(H) said that while an average of about 15 000 PRH units would be produced each year, suitable adjustments would be made in accordance with the latest demand situation with a view to maintaining the AWT for general PRH applicants at around three years. DDH(D&C) added that all viable sites, regardless of their sizes, would be considered for PRH developments under the principle of optimal utilization of land resources to maintain cost-effective and sustainable development. There were plans for PRH developments in extended urban areas and the New Territories, including Sheung Shui and Tuen Mun.

15. Mr Abraham SHEK shared other members' concern on the lack of planning for the five-year rolling PHCP in the longer term to meet the increasing demand from general PRH applicants. He was also disappointed that no land provisions had been earmarked for the development of Home Ownership Scheme (HOS) flats. He opined that with its fiscal reserves, the Administration should be able to provide more housing land to ease the demand of the general community. Efforts should also be made to reduce the AWT for PRH so that PRH applicants living in dilapidated conditions could be allocated PRH units sooner. Atg PSTH(H) explained that PHCP was meant to forecast the supply of PRH units in the next five years on a rolling basis, so as to maintain the AWT for general PRH applicants at around three years. The Chief Executive had indicated that he would respond to the HOS issues in the 2011-2012 Policy Address in October 2011.

16. In concluding, the Chairman said that the uncertainties in land production had caused instability in the property market. Panel members generally

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considered that more land should be provided for both public and private housing. More efforts should be made to identify land for housing and to increase transparency in land production. The subject of land supply for housing would be further discussed in the next legislative session.

II. Steering Committee on Regulation of Sale of First-hand Residential Properties by Legislation

(LC Paper No. CB(1) 2778/10-11(03) — Administration's paper on Steering Committee on Regulation of Sale of First-hand Residential Properties by Legislation

LC Paper No. CB(1) 2778/10-11(04) — Paper on Steering Committee on Regulation of the Sale of First-hand Residential Properties by Legislation prepared by the Legislative Council Secretariat (updated background brief))

17. Atg PSTH(H) updated members on the work progress of the Steering Committee on Regulation of Sale of First-hand Residential Properties by Legislation (the Steering Committee) by highlighting the salient points in the information paper.

18. Referring to a media report on the sale of a car parking space at \$1 to a celebrity after purchasing a luxurious flat at the same development, Mr WONG Kwok-hing noted that the parking space was not included in the Agreement for Sale and Purchase of the flat. He was concerned that such sale tactics might involve collusion with a view to pushing up the sale prices of the flats. He enquired if regulatory measures could be taken to deter such tactics. Atg PSTH(H) said that measures had been put in place to enhance the transparency of property transactions. Under the existing requirements of LandsD's Consent Scheme (the Consent Scheme) and the guidelines of the Real Estate Developers Association of Hong Kong (REDA), developers were required to issue the price list at least three days before the sale commenced. All the concessionary arrangements, including the discounts to be offered for car parking spaces, should be set out in the price list. The Steering Committee had studied the existing requirements and recommended that these requirements should be incorporated into the proposed legislation. It had further recommended that developers should disclose transaction information within one working day after the signing of the Preliminary Agreement for Sale and Purchase (PASP), instead of five working days after the signing of the PASP as required at present. As regards the case in question, Atg PSTH(H) said that the development concerned was not under the Consent Scheme, and the developer had sold the development

Action to a trust fund which was not a member of REDA. However, Atg PSTH(H) pointed out that the new legislation would apply to the sale of all types of first-hand residential properties.

19. Mr WONG Kwok-hing considered it necessary for the Administration to plug the loophole in connection with the sale of first-hand properties not under the Consent Scheme and/or REDA's guidelines pending the introduction of the new legislation. Expressing similar views, Mr James TO enquired whether it was a contravention if a car parking space was offered to a purchaser for free after completion of the sales of the property under a serial transaction. He was also concerned that the sale tactics might be used to get round the requirement for payment of stamp duty in respect of sales of properties at the luxury end. Under the existing stamp duty regime, property transactions valued above \$20 million would be subject to a rate of 4.25%. Purchasers would have to pay more stamp duty if the value of the parking space was included in the sale prices of the property. However, if the parking space was sold for \$1 in a separate transaction, as in the case in question, the amount of stamp duty that could be collected would be less. Atg PSTH(H) said that the Steering Committee had discussed the scope of the proposed legislation. It was agreed that all first-hand uncompleted and completed residential properties, including projects developed under old lease conditions, Consent Scheme projects and projects outside the Consent Scheme, should be covered by the new legislation. While assuring members that the Inland Revenue Department would take measures against tax avoidance by purchasers, she agreed to reflect Mr TO's concern about the implications on stamp duty in the event that the sale of car parking space was separated from the sale of property. In reply to Mr WONG's further enquiry about the rates for parking spaces which were sold at \$1, Atg PSTH(H) advised that the Inland Revenue Department would make reference to the market value of the properties as assessed by the Rating and Valuation Department in determining the amount of ad valorem stamp duty payable. For properties sold at a consideration and with a market value below \$2 million, including parking spaces, a flat rate of \$100 would be charged.

20. Professor Patrick LAU declared interest as a member of the Steering Committee. He agreed that there was a need for the Steering Committee to look into arrangements associated with the sale of car parking spaces in residential developments. Developers should be required to clearly set out in the sales brochure the sale arrangements for car parking spaces, and whether the prices of properties included the price of a car parking space. Atg PSTH(H) undertook to relay Professor LAU's concerns to the Steering Committee for consideration.

21. The Chairman noted that some owners of agricultural land had constructed houses on their land for sale without applying for modification of land use. As prospective buyers might not be aware of the legality of the sale of the land together with the superstructure, he had written to the Law Society of Hong Kong

Action to seek clarification but with no avail. He enquired how the Administration would deal with such cases. As the cases referred to might involve very complicated issues, Atg PSTH(H) said that she was not able to comment until she had more information on the case.

22. In view of the urgent need for new legislation to deter against malpractices in the sale of first-hand residential properties, the Chairman remained of the view that it would be more desirable for the relevant White Bill to be released in parallel with the report of the Steering Committee in October 2011 for a two-month public consultation. This would enable the introduction of the Blue Bill in January 2012 to allow sufficient time for the Legislative Council to complete scrutiny of the Blue Bill before the end of the legislative term in July 2012. Atg PSTH(H) said that the progress of work of the Steering Committee was on schedule, and that a report containing recommendations of the Steering Committee on a practicable way forward would be submitted to the Secretary for Transport and Housing in October 2011. While the Administration would endeavour to expedite the legislative process in collaboration with the Department of Justice, reasonable time should be allowed for the drafting of the White Bill given its complexity and extensive scope. In fact, the drafting of some of the provisions where consensus had been reached by the Steering Committee was already underway.

III. Any other business

23. There being no other business, the meeting ended at 12:30 pm.

Council Business Division 1
Legislative Council Secretariat
6 October 2011