

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 2408/11-12  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/4/11/2

**Bills Committee on Residential Properties (First-hand Sales) Bill**

**Minutes of third meeting**  
**held on Wednesday, 18 April 2012, at 8:30 am**  
**in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon James TO Kun-sun  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Audrey EU Yuet-mee, SC, 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 Starry LEE Wai-king, JP  
Hon WONG Kwok-kin, BBS  
Hon IP Kwok-him, GBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon Tanya CHAN

**Members absent** : Hon LEE Cheuk-yan  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon Paul CHAN Mo-po, MH, JP  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

**Public officers** : **For item I**  
**attending**

Transport and Housing Bureau

Mr Eugene FUNG  
Deputy Secretary for Transport and Housing (Special  
Duties)

Mrs Hedy CHU  
Principal Assistant Secretary for Transport and  
Housing (Special Duties)

Miss Sharon KO  
Senior Administrative Officer (Special Duties) 1

Department of Justice

Mr Lawrence PENG  
Senior Assistant Law Draftsman

Miss Grace LAM  
Senior Government Counsel

Ms Mandy NG  
Government Counsel

Lands Department

Mr Armstrong CHU  
Chief Land Conveyancing Officer/Port and Railway  
Development (Legal Advisory and Conveyancing  
Office)

Mr Ronald MA  
Senior Solicitor/Special Duty(2) (Legal Advisory and  
Conveyancing Office)

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

**Staff in attendance** : Miss Kitty CHENG  
Assistant Legal Adviser 5

Mrs Mary TANG  
Senior Council Secretary (1)1

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**I. Meeting with the Administration**

- (LC Paper No. CB(1) 1598/11-12(01) — List of follow-up actions arising from the discussion at the meeting on 11 April 2012
- LC Paper No. CB(1) 1598/11-12(02) — Administration's response to CB(1) 1598/11-12(01)
- LC Paper No. CB(1) 1598/11-12(03) — Assistant Legal Adviser's letters dated 12 April 2012 to the Administration
- LC Paper No. CB(1) 1598/11-12(04) — Administration's response to CB(1) 1598/11-12(03))

Background information on the Bill

- LC Paper No. CB(3) 570/11-12 — The Bill
- (issued by the Transport and Housing Bureau on 13 March 2012)* — The Legislative Council Brief
- LC Paper No. LS47/11-12 — Legal Service Division Report

The Bills Committee deliberated (Index of Proceedings attached in **Annex**).

2. The Administration was requested to -

- (a) review the Chinese rendition of the phrases "no agreement for sale and purchase had ever been entered into" and "no assignment had ever been made" in the long title as well as in clause 10(1);
- (b) advise whether the "company" in clause 2 included companies incorporated or registered overseas with subsidiaries in Hong Kong, and whether the Bill applied to these companies;
- (c) consider deleting clause 2(2) regarding a "note" located in the text of the Bill, and the two relevant "notes" in the Bill;
- (d) review the need for the phrase "without contravening the land grant and the occupation permit" in clause 6(1), lest this might be exploited say through illegal conversion of commercial/industrial units to residential units;
- (e) review the exemption for the Hong Kong Housing Authority from the Bill under clause 10(6);

- (f) explain with illustration the date on which the Bill became applicable to a residential property in the case where an agreement for sale and purchase had been subsequently terminated or declared void by the court;
- (g) seriously re-consider expanding the scope of Part 4 (clauses 65 and 66) to misrepresentation and dissemination of false or misleading information in relation to the sale of overseas residential properties conducted in Hong Kong. To also advise the difference between the provisions in the Bill and the Theft Ordinance (Cap. 210) in dealing with misrepresentation and dissemination of false or misleading information; and
- (h) provide, at a later stage, a paper setting out the initial ideas on the establishment of the proposed enforcement authority.

3. The Chairman reminded members that the next meeting would be held on Tuesday, 24 April 2012, at 10:45 am to receive views from deputations.

## **II. Any other business**

4. There being no other business, the meeting ended at 10:30 am.

Council Business Division 1  
Legislative Council Secretariat  
25 July 2012

**Bills Committee on Residential Properties (First-hand Sales) Bill**

**Proceedings of the third meeting  
on Wednesday, 18 April 2012, at 8:30 am  
in Conference Room 3 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
<i>Agenda Item I - Meeting with the Administration</i>			
000442 - 000555	Chairman	Opening remarks	
000556 - 001753	Administration Chairman	Administration's explanation on its response to issues raised by members at the meeting on 11 April 2012 and the Assistant Legal Adviser 5 (ALA5) in her letter dated 12 April 2012 (LC Paper Nos. CB(1) 151711-12(02) and 1598/11-12(02)).	
001754 - 003417	Chairman Administration Mr LEE Wing-tat	Continuation of clause-by-clause examination of the Bill.  Clause 2 - Interpretation  "company"  Mr LEE Wing-tat's enquiry on the liability of companies incorporated or registered overseas which had entrusted their subsidiaries in Hong Kong in the sale of first-hand residential properties in Hong Kong.	The Administration to advise whether the "company" in clause 2 included companies incorporated or registered overseas with subsidiaries in Hong Kong, and whether the Bill applied to these companies.
003418 - 004635	Administration Ms Audrey EU	Ms Audrey EU's enquiry on the need for clause 2(2) regarding a "note" located in the text of the Bill.  Administration's explanation -  (a) notes were meant to provide cross-referencing to facilitate readers to understand the legislation more quickly and get a clearer picture of it, and were used in other legislation and bills, including the Companies Bill; and  (b) notes appeared in clause 18(1) and Schedule 1 section 28(2) of the Bill.	The Administration to consider deleting clause 2(2) regarding a "note" located in the text of the Bill, and the two relevant "notes" in the Bill.
004636 - 004817	Administration	Clause 3 - Interpretation: development, phase and building	

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004818 - 005856	Ms Audrey EU Chairman Administration	<p>Discussion on sale of overseas residential properties conducted in Hong Kong as set out in paragraph 9 of LC Paper No. CB(1) 1598/11-12(02).</p> <p>Ms Audrey EU's views -</p> <p>(a) given the narrow scope of the Theft Ordinance (Cap. 210), the expansion of the scope of Part 4 (clauses 65 and 66) to misrepresentation and dissemination of false or misleading information in relation to the sale of overseas residential properties conducted in Hong Kong would offer greater protection to buyers; and</p> <p>(b) with the establishment of the proposed enforcement authority, there should be sufficient manpower resources to deal with the proposed expansion.</p> <p>Administration's response -</p> <p>(a) the objective of the Bill was to regulate the sale of first-hand residential properties situated in Hong Kong. The Bill provided a holistic and effective framework to regulate the sale of first-hand residential properties situated in Hong Kong;</p> <p>(b) regulating the sale of overseas residential properties conducted in Hong Kong was a completely different subject, with different issues, and required careful consideration; and</p> <p>(c) the charges of "theft", "fraud", and "obtaining property by deception" under sections 9, 16A and 17 of the Theft Ordinance (Cap. 210) respectively might be applicable where a sale of overseas property in Hong Kong involved misrepresentation or false or misleading information.</p>	<p>The Administration to seriously re-consider expanding the scope of Part 4 (clauses 65 and 66) to misrepresentation and dissemination of false or misleading information in relation to the sale of overseas residential properties conducted in Hong Kong. To also advise the difference between the provisions in the Bill and the Theft Ordinance (Cap. 210) in dealing with misrepresentation and dissemination of false or misleading information.</p>
005856 - 010137	Ms Audrey EU Chairman Administration Mr IP Kwok-him	<p>Discussion on establishment of the enforcement authority as set out in paragraphs 10 to 14 of LC Paper No. CB(1) 1598/11-12(02).</p>	<p>The Administration to provide, at a later stage, a paper setting out the initial ideas on the establishment</p>

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		<p>Ms Audrey EU's request for information on the establishment of the proposed enforcement authority and the ranking of the public officer to be appointed as the Authority.</p> <p>Mr IP Kwok-him's view that the Administration should advise the ranking of the Authority when the Bill was passed.</p> <p>Administration's response -</p> <p>(a) the resource requirements for the enforcement authority were being worked out. The Administration would seek additional resources as necessary in accordance with the established resource allocation procedures (including seeking support from the Housing Panel, the Establishment Subcommittee and the Finance Committee as appropriate) in due course after the passage of the Bill; and</p> <p>(b) a public officer at an appropriate directorate level would be appointed as the Authority.</p>	<p>of the proposed enforcement authority.</p>
010138 - 010207	Administration	Clause 3 - Interpretation: development, phase and building	
010208 - 010254	Administration	Clause 4 - Interpretation: completed, uncompleted development and phase etc.	
010255 - 010321	Administration	Clause 5 - Interpretation: specified NT development	
010322- 011150	Administration Ms Audrey EU Mr James TO	<p>Clause 6 - Interpretation: residential property</p> <p>Mr James TO's concern that application of the interpretation of residential property to a property "without contravening the land grant and the occupation permit" could be exploited by developers through contravention of land grant conditions by illegally converting commercial/industrial units to residential units and offering these units for sale.</p>	<p>The Administration to review the need for the phrase "without contravening the land grant and the occupation permit" in clause 6(1), lest this might be exploited say through illegal conversion of commercial /industrial units to residential units.</p>

Time marker	Speaker	Subject(s)	Action required
011151 - 011300	Administration	Clause 7 - Interpretation: vendor	
011301 - 011412	Administration	Clause 8 - Interpretation: saleable area and related expressions	
011413 - 013121	Ms Audrey EU Administration Ms Tanya CHAN Mr LEE Wing-tat	Clause 7 - Interpretation: vendor Discussion on the interpretation of vendor	
013122 - 013219	Administration Chairman	Clause 9 - Interpretation Provisions not applicable to Schedules 4 to 7	
013220 - 013930	Administration Ms Audrey EU Mr LEE Wing-tat Chairman	<p>Clause 10 - Application of this Ordinance</p> <p>Members' acknowledgment that Committee Stage amendments would be introduced to clauses 10(1) and 11 to the effect that agreement for sale and purchase (ASP) would include preliminary agreement for sale and purchase.</p> <p>Mr LEE Wing-tat's concern about exempting the Hong Kong Housing Authority (HA) from the application of the Bill.</p> <p>Ms Audrey EU's enquiry/view -</p> <p>(a) whether Private Sector Participation Scheme (PSPS) flats developed jointly by HA and private developers would be exempted from the application of the Bill; and</p> <p>(b) need to review the Chinese rendition of the phrases "no agreement for sale and purchase had ever been entered into" and "no assignment had ever been made" in the long title as well as in clause 10(1).</p>	<p>The Administration to -</p> <p>(a) review the exemption for HA from the Bill under clause 10(6); and</p> <p>(b) review the Chinese rendition of the phrases "no agreement for sale and purchase had ever been entered into" and "no assignment had ever been made" in the long title as well as in clause 10(1).</p>
013931 - 015140	Administration Assistant Legal Adviser 5 (ALA5) Ms Audrey EU Chairman	<p>Clause 11 - Provision Supplementary to section (10)1: agreement or assignment to be disregarded</p> <p>ALA5's request for clarification on the date on which the Bill became applicable to a residential property in the case where an ASP had been subsequently terminated or declared void by the court.</p>	<p>The Administration to explain with illustration the date on which the Bill became applicable to a residential property in the case where an ASP had been subsequently terminated or</p>



<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		Ms Audrey EU's view that the Bill as drafted would only apply to properties in which no ASP nor assignment had ever been entered into, without due regard to those where transactions had been subsequently terminated or declared void by the court.	declared void by the court.
015141 - 015320	Administration	Clause 12 - Interpretation of Part 2	
015321 - 015538	Administration	Clause 13 - Interpretation of Part 2: sale of residential property	
015539 - 015555	Administration	Clause 14 - Application of Part 2	
015556 - 015641	Administration	Clause 15 - Sales brochure to be prepared by vendor	
015642 - 020022	Administration ALA5 Chairman	Clause 16 - Provision supplementary to section 15	
020023 - 020124	Administration	Clause 17 - Title of sales brochure	
020125 - 020223	Chairman	Date of next meeting.	