

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 2409/11-12  
(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 fourth meeting**  
**held on Tuesday, 24 April 2012, at 10:45 am**  
**in Conference Room 1 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 LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, 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 Paul CHAN Mo-po, MH, JP  
Hon WONG Kwok-kin, BBS  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon Tanya CHAN

**Members absent** : Hon Ronny TONG Ka-wah, SC  
Hon Starry LEE Wai-king, JP  
Hon IP Kwok-him, GBS, JP

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

Transport and Housing Bureau

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

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

**Attendance by  
invitation : For item I**

The Real Estate Developers Association of Hong  
Kong

Mr Stewart LEUNG  
Chairman, Executive Committee

Designing Hong Kong

Mr Paul ZIMMERMAN  
Chief Executive Officer

Hong Kong Chamber of Professional Property  
Consultants Limited

Mr Lawrence WONG  
Past President (2005-2011) and Honorary Secretary

Property Agencies Association

Mr Tony KWOK  
Chairman

Consumer Council

Ms Connie LAU, JP  
Chief Executive

Hong Kong Real Estate Agencies General Association

Mr TSE Shun-lai  
First Vice Chairman

Islands District Council Member

Ms Amy YUNG

The Hong Kong Institute of Architects

Mr Dominic LAM  
President

Hong Kong Institute of Real Estate Administrators

Mr Michael CHOI, JP  
Vice President

The Hong Kong Institute of Surveyors

Dr Lawrence POON  
Chairman, Housing Policy Panel

Hong Kong Professionals And Senior Executives  
Association

Mr TSE Wai-chuen  
President

Centaline Property Agency Limited

Mr CHAN Wing-kit  
Chief Executive Officer (Residential) Asia Pacific

The Hong Kong Conveyancing And Property Law  
Association Limited

Mr Anthony SHIN  
President

Civic Party

Mr NG Yin-keung  
District Developer

The Law Society of Hong Kong

Mr Raymond WONG  
Member of Property Committee

The Professional Commons

Mr Victor WAI  
Vice Chairman

New People's Party

Mr David WONG  
Executive Committee Member

**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 deputations and the Administration**

Meeting with deputations

The Chairman invited views from the following organizations/individuals -

- (a) Consumer Council  
(LC Paper No. CB(1) 1641/11-12(03))
- (b) The Real Estate Developers Association of Hong Kong  
(LC Paper Nos. CB(1) 1641/11-12(01) & 1658/11-12(01))
- (c) Designing Hong Kong
- (d) Hong Kong Chamber of Professional Property Consultants Limited  
(LC Paper No. CB(1) 1641/11-12(02))
- (e) Property Agencies Association
- (f) Hong Kong Real Estate Agencies General Association

- (g) Islands District Council Member  
(LC Paper No. CB(1) 1641/11-12(04))
- (h) The Hong Kong Institute of Architects
- (i) Hong Kong Institute of Real Estate Administrators
- (j) The Hong Kong Institute of Surveyors
- (k) Hong Kong Professionals And Senior Executives Association  
(LC Paper No. CB(1) 1641/11-12(05))
- (l) Centaline Property Agency Limited  
(LC Paper No. CB(1) 1709/11-12(01))
- (m) The Hong Kong Conveyancing And Property Law Association Limited  
(LC Paper No. CB(1) 1641/11-12(06))
- (n) Civic Party  
(LC Paper No. CB(1) 1685/11-12(02))
- (o) The Law Society of Hong Kong  
(LC Paper No. CB(1) 1685/11-12(01))
- (p) The Professional Commons  
(LC Paper No. CB(1) 1658/11-12(02))
- (q) New People's Party  
(LC Paper No. CB(1) 1685/11-12(03))

2. Members also noted the following submissions from deputations not attending the meeting -

LC Paper No. CB(1) 1641/11-12(07) — Submission from Mr YEUNG Wai-sing, member of the Eastern District Council;

LC Paper No. CB(1) 1641/11-12(08) — Submission from Professional Property Services Limited; and

LC Paper No. CB(1) 1641/11-12(09) — Submission from Swire Properties.

Meeting with the Administration

(LC Paper No. CB(1) 1658/11-12(03) — List of follow-up actions arising from the discussion at the meeting on 18 April 2012)

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)

3. The Subcommittee deliberated (Index of proceedings attached in **Annex**).
4. The Administration was requested to -
  - (a) provide in tabular form the Administration's response to deputations' views;
  - (b) advise the feasibility of enacting the Bill by phases with a view to ensuring the passage of major provisions within the current legislative term; and
  - (c) endeavour to work out a standardized definition of "gross floor area" and include such definition in the Bill.
5. The Chairman informed members that the next two Bills Committee meetings originally scheduled for 3 and 10 May 2012 had been re-scheduled to 2 and 9 May 2012 at 8:30 am respectively to avoid clashing with the anticipated continuation of the Council meetings held on the previous days.

**II. Any other business**

6. There being no other business, the meeting ended at 1:00 pm.

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

**Proceedings of the fourth meeting  
on Tuesday, 24 April 2012, at 10:45 am  
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Meeting with deputations and the Administration</i>			
000602 - 000850	Chairman	Opening remarks	
000851 - 001240	Ms Connie LAU, JP, Consumer Council	Expression of views (LC Paper No. CB(1) 1641/11-12(03)).	
001241 - 001631	Mr Stewart LEUNG, The Real Estate Developers Association of Hong Kong (REDA)	Expression of views (LC Paper Nos. CB(1) 1641/11-12(01) & 1658/11-12(01)).	
001632 - 001807	Mr Paul ZIMMERMAN, Designing Hong Kong	Expression of views -  (a) supported the Bill in principle;  (b) apart from first-hand residential properties, consideration should be given to regulating the sales of all properties, including those in the secondary market; and  (c) there was also a need to work out a standardized definition on "gross floor area (GFA)".	
001808 - 002134	Mr Lawrence WONG, Hong Kong Chamber of Professional Property Consultants Limited (HKCPPC)	Expression of views (LC Paper No. CB(1) 1641/11-12(02)).	
002135 - 002503	Mr Tony KWOK, Property Agencies Association (PAA)	Expression of views -  (a) supported the Bill in principle;  (b) did not accept the proposal of exempting flats constructed by the Hong Kong Housing Authority (HA) from application of the Bill;  (c) to help the public to familiarize with the use of saleable area (SA) to quote	

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		<p>area and price of residential properties, consideration should be given for the Rating and Valuation Department (RVD) to set out SA in the demand note for Government rate/rent;</p> <p>(d) a transitional period should be provided during which both SA and GFA could be used;</p> <p>(e) penalty for misrepresentation and dissemination of false or misleading information should commensurate with the severity of offence;</p> <p>(f) an independent enforcement authority should be set up with membership from different stakeholders, including the legal profession and the trades; and</p> <p>(g) apart from a database for first-hand residential properties, the same should be set up for properties in the secondary market.</p>	
002504 - 002806	Mr TSE Shun-lai, Hong Kong Real Estate Agencies General Association (HKREAGA)	<p>Expression of views -</p> <p>(a) supported the use of SA but need to enhance public understanding in this respect;</p> <p>(b) consideration should be given for RVD to set out SA in the demand note for Government rent/rate; and</p> <p>(c) the Bill should also apply to flats developed by HA.</p>	
002807 - 003125	Ms Amy YUNG, Islands District Council Member	Expression of views (LC Paper No. CB(1) 1641/11-12(04)).	
003126 - 003305	Mr Dominic LAM, The Hong Kong Institute of Architects (HKIA)	Supported the Bill in principle.	
003306 - 003622	Mr Michael CHOI, JP, Hong Kong Institute of Real Estate Administrators (HKIREA)	<p>Expression of views -</p> <p>(a) supported the Bill in principle;</p> <p>(b) in the absence of a standardized definition of GFA, the use of SA to</p>	



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		<p>quote unit area and price was acceptable;</p> <p>(c) to enable the public to get familiarized with the use of SA, there was a need for a transitional period during which both GFA and SA could be used; and</p> <p>(d) to facilitate compliance with the Bill, the enforcement authority should work out clear guidelines for the trade to follow and such guidelines should be subject to public consultation.</p>	
003623 - 004005	Dr Lawrence POON, The Hong Kong Institute of Surveyors (HKIS)	<p>Expression of views -</p> <p>(a) supported the Bill, particularly the use of SA as the only basis to quote area and price of residential units; and</p> <p>(b) in the absence of a standardized definition of GFA, its use would cause confusion to the public.</p>	
004006 - 004316	Mr TSE Wai-chuen, Hong Kong Professionals And Senior Executives Association (HKPSEA)	Expression of views (LC Paper No. CB(1) 1641/11-12(05))	
004317 - 004552	Mr CHAN Wing-kit, Centaline Property Agency Limited	Expression of views (LC Paper No. CB(1) 1709/11-12(01)).	
004553 - 004949	Mr Anthony SHIN, The Hong Kong Conveyancing And Property Law Association Limited (HKCPLA)	Expression of views (LC Paper No. CB(1) 1641/11-12(06)).	
004950 - 005321	Mr NG Yin-keung, Civic Party	Expression of views (LC Paper No. CB(1) 1685/11-12(02)).	
005322 - 005643	Mr Raymond WONG, The Law Society of Hong Kong (LS)	Expression of views (LC Paper No. CB(1) 1685/11-12(01)).	

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005644 - 005950	Mr Victor WAI, The Professional Commons	Expression of views (LC Paper No. CB(1) 1658/11-12(02)).	
005951 - 010301	Mr David WONG, New People's Party	Expression of views (LC Paper No. CB(1) 1685/11-12(03)).	
010302 - 011620	Chairman Administration	<p>Administration's general response to deputations views -</p> <ul style="list-style-type: none"> <li>(a) there was general support for the Bill;</li> <li>(b) the Bill should focus on the regulation of the sale of first-hand residential properties situated in Hong Kong;</li> <li>(c) need to standardize requirements for information in sales brochures for the easy reference of prospective purchasers;</li> <li>(d) the use of SA was not a new requirement. The Lands Department Consent Scheme and REDA's guidelines required the disclosure of information on SA for a property since October 2008;</li> <li>(e) would explore with RVD the feasibility of including information on SA of residential properties in the demand note for Government rate/rent;</li> <li>(f) the Bill provided a due diligence defence for offences under Part 2 (sales practices) and Part 3 (advertisement) (except clause 60 of Part 3 which stipulated that advertisement must not contain false or misleading information);</li> <li>(g) it was proposed that developments constructed by HA be exempted from application of the Bill. This took into account that Home Ownership Scheme (HOS) flats were subsidized flats and were sold below market price. Besides, HA made public the total number of HOS flats to be offered for sale and the range of the discounted selling prices of the flats two to three months before the commencement of</li> </ul>	

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		<p>flat selection, the priorities of which among eligible applicants were determined by balloting. The mode of sale of HOS flats was totally different from normal market practice.;</p> <p>(h) would ensure the Bill was in conformity with the Basic Law;</p> <p>(i) reference was made to the Securities and Futures Ordinance (Cap. 571) in the drafting of the provisions on misrepresentation and dissemination of false and misleading information in the Bill; and</p> <p>(j) a meeting would be arranged with LS to follow-up on the issues raised.</p>	
011621 - 012151	Ms Audrey EU Chairman	<p>Ms Audrey EU's views -</p> <p>(a) the Administration should liaise with relevant parties, including deputations attending the meeting, to address their concerns about the Bill;</p> <p>(b) the scope of the Bill was too limited which would only apply to properties in which no agreement for sale and purchase (ASP) nor assignment had ever been entered;</p> <p>(c) the scope of Part 4 (clauses 65 and 66) on misrepresentation and dissemination of false or misleading information should be expanded to include the sale of overseas residential properties conducted in Hong Kong; and</p> <p>(d) need to work out a timeframe within which a standardized definition of gross floor area (GFA) could be formulated.</p> <p>Owing to time constraints, deputations were invited to respond to Ms Audrey EU's views in writing after the meeting.</p>	
012152 - 012725	Prof Patrick LAU Mr TSE Shun-lai/ HKREAGA Chairman	<p>Prof Patrick LAU's views -</p> <p>(a) estate agents had the responsibility to inform prospective buyers of SA of residential properties; and</p>	

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		<p>(b) HKIA to advise on the adequacy of the provisions relating to the requirement for a cross-section of the building.</p> <p>Mr TSE Shun-lai/HKREAGA's support for the inclusion of the information on SA in the demand note for Government rate/rent.</p>	
012726 - 013233	Mr James TO Dr Lawrence POON/ HKIS	<p>Mr James TO's enquiry on the feasibility of providing a standardized definition of GFA for a property.</p> <p>Dr Lawrence POON/HKIS's explanation on the practical difficulties in providing a standardized definition of GFA for a property, including the different interpretation of apportioned share of common areas by different vendors and how each item was to be measured.</p>	
013234 - 014135	Ms Miriam LAU Administration Mr Stewart LEUNG/ REDA Chairman	<p>Ms Miriam LAU's views/enquiries -</p> <p>(a) the Administration should provide a written response to deputations' views;</p> <p>(b) the feasibility of enacting the Bill by phases with a view to ensuring the passage of major provisions within the current legislative term;</p> <p>(c) whether developers were prepared to accept standardization of all components of GFA;</p> <p>(d) support for inclusion of SA in the demand note for Government rate/rent; and</p> <p>(e) support for setting up a central database on property information.</p> <p>Administration's response -</p> <p>(a) phased enactment of the Bill was not desirable as each and every part of the Bill worked together to form an integral part of the regulatory framework. The effectiveness and the deterrent effect of the Bill in ensuring the transparency and fairness in the sales of first-hand residential properties would be adversely affected if some</p>	<p>The Administration to -</p> <p>(a) provide written response to deputations' views; and</p> <p>(b) advise the feasibility of enacting the Bill by phases with a view to ensuring the passage of major provisions within the current legislative term.</p>

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		<p>parts were missing or were not being brought into operation concurrently; and</p> <p>(b) would follow up with RVD on the proposal for providing information on SA in the demand note for Government rate/rent. Besides, a central database on first-hand residential properties would be set up upon the coming into operation of the Bill.</p> <p>Mr Stewart LEUNG/REDA's views -</p> <p>(a) it was not difficult to provide for a standardized definition of GFA. However, a consensus on the calculation of GFA was required; and</p> <p>(b) support for the use of SA but GFA ought to be included as well for reference by prospective buyers.</p>	
014136 - 014905	Mr LEE Wing-tat Administration Dr Lawrence POON/ HKIS	<p>Mr LEE Wing-tat's enquiries -</p> <p>(a) means to deal with non-provision of information by vendors;</p> <p>(b) whether the enforcement authority could initiate civil proceedings against unscrupulous vendors on behalf of buyers; and</p> <p>(c) the practicality of providing for a standardized definition of GFA.</p> <p>Administration's explanation -</p> <p>(a) intentional omission of material facts from a statement was an offence under clause 65;</p> <p>(b) the Consumer Legal Action Fund would provide financial assistance to meritorious cases relating to consumer transactions involving public interest or injustice. The Home Affairs Bureau was also proposing to expand the scope of the supplementary Legal Aid Scheme to cover monetary claims against vendors in the sale of first-hand residential properties.</p>	

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		<p>Dr Lawrence POON/HKIS's reiteration on the practical difficulties in providing a standardized definition of GFA for a property.</p>	
014906 - 015556	Mr Alan LEONG Administration	<p>Mr Alan LEONG's views -</p> <p>(a) lawyers and professionals who were involved in preparing the sales brochures might be unnecessarily caught under clause 66 for disseminating false or misleading information; and</p> <p>(b) need to address the Professional Commons' concern about withholding of relevant information which might affect purchasers' decision.</p> <p>Administration's explanation -</p> <p>(a) vendors should endeavour to disclose relevant information that was known to them, as intentional omission of material facts might constitute an offence under clauses 65 and 66; and</p> <p>(b) according to the Bill, the prosecution would need to prove that the person knew that, or was reckless as to whether, the information was false or misleading as to a material fact.; and</p>	
015557 - 020153	Mr LEE Cheuk-yan Administration	<p>Mr LEE Cheuk-yan's views -</p> <p>(a) prospective buyers would be keen to know SA and the facilities provided rather than GFA showing the apportioned share of common areas; and</p> <p>(b) need to address Consumer Council's concern about the arrangements for reservation of units, and its request for reduction of 5% forfeiture of deposit for failure to proceed with the transaction.</p> <p>Administration's response -</p> <p>(a) provision of information on area of common facilities on an aggregate basis was mandatory under the Bill;</p>	

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		<p>(b) under the Bill, while expression of intent without specifying a particular residential property was allowed after the issuance of price list, vendors were required to make public information on sales arrangements (such as the date and time for the commencement of sale, the sales venue(s), the number of residential properties to be offered for sale and what they were, and the method to be used to determine the order of priority of purchasers) at least three days prior to the commencement of sale to ensure transparency and fairness; and</p> <p>(c) a balanced approach was taken in determining the forfeiture amount. The proposed 5% preliminary deposit under the Bill was much lower than that of the current preliminary deposit which was set at 10% of property price.</p>	
020154 - 020844	<p>Mr Abraham SHEK Administration Mr Stewart LEUNG/ REDA Chairman</p>	<p>Mr Abraham SHEK's view that the Administration should provide a standardized definition of GFA for members' consideration.</p> <p>Administration's explanation -</p> <p>(a) the Bill, including the proposal to use SA as the only basis for presenting property area and price per square foot/metre of a property, was the outcome of intensive discussion at the Steering Committee on the Regulation of the Sales of First-hand Residential Properties by Legislation and extensive public consultation; and</p> <p>(b) the challenge of coming up with a standardized definition of GFA for a property was to get all the key stakeholders to come to agree to a definition. Past experience in working out a standardized definition of SA indicated that it would take a considerable time for all relevant stakeholders to agree to such a definition.</p>	<p>The Administration to endeavour to work out a standardized definition of "gross floor area" and include such definition in the Bill.</p>

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		Mr Stewart LEUNG/REDA's remark that GFA had all along been used in land sales.	
020845 - 021620	Ms Audrey EU Chairman Mr James TO Mr Abraham SHEK Administration	<p>Chairman's view that the need for a standardized definition of GFA could be referred to the Panel on Housing for follow-up.</p> <p>Ms Audrey EU's views -</p> <p>(a) the Bill as drafted would only apply to properties in which no ASP nor assignment had ever been entered into, without due regard to confirmor sales and transactions which had been subsequently terminated or declared void by the court at different points of time; and</p> <p>(b) the Administration should meet with deputations to address their concerns on the Bill.</p> <p>Administration undertook to follow up with deputations on the issues raised as appropriate.</p>	
021621 - 021756	Chairman	Date of next meeting.	