

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 2428/11-12  
(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 fifth meeting**  
**held on Wednesday, 2 May 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 LEE Cheuk-yan  
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  
Hon Ronny TONG Ka-wah, SC  
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 Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon Tanya CHAN

**Members absent** : Hon James TO Kun-sun  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Paul CHAN Mo-po, MH, JP

**Public officers** : **For item II**  
**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. Confirmation of minutes**

(LC Paper No. CB(1) 1711/11-12 — Minutes of the meeting held on 30 March 2012)

The minutes of the meeting held on 30 March 2012 were confirmed.

**II. Meeting with the Administration**

(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)

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

LC Paper No. CB(1) 1730/11-12(01) — Administration's response to CB(1) 1658/11-12(03)

LC Paper No. CB(1) 1730/11-12(02) — List of follow-up actions arising from the discussion at the meeting on 24 April 2012

LC Paper No. CB(1) 1730/11-12(03) — Assistant Legal Adviser's letter dated 25 April 2012 to the Administration)

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

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

3. The Administration was requested to -

- (a) review the phrase "without contravening the land grant and the occupation permit" in clause 6(1) to ensure that this would not be used by vendors as means to avoid regulation by the Bill;
- (b) seriously re-consider the need for the proposed exemption for the Hong Kong Housing Authority under clause 10(6);

- (c) review the presentation of clauses 18 and 19 to ensure that sales brochures would include all the essential information, particularly floor plan, cross-section plan and elevation plan. To also review the use of the Chinese rendition of the term "then" in clause 18(2) and other relevant clauses in the Bill;
- (d) provide illustrations on the prescribed font sizes for English letters/Chinese characters and numbers under clauses 22(2) and (3). To also advise the reason for imposing relatively heavy penalty for minor offence of using wrong font sizes, and the applicability of the same provision to other existing ordinances, particularly those related to insurance;
- (e) advise whether offences under Parts 2 and 3 were strict liabilities. To also review the propriety of the levels of penalties for these offences; and
- (f) review clause 26(4) to better reflect the policy intent of requiring a vendor to make available a revised price list before changing the price of a specified residential property. To provide with illustrations the application of clause 26(4) to circumstances (such as negotiation of prices after publication of price lists) and possible contraventions.

4. Members agreed to continue examining the Bill clause by clause at the next meeting on 9 May 2012 at 8:30 am.

### **III. Any other business**

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

Council Business Division 1  
Legislative Council Secretariat  
2 August 2012

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

**Proceedings of the fifth meeting  
on Wednesday, 2 May 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 - Confirmation of minutes</i>			
000633 - 000813	Chairman	The minutes of the meeting held on 30 March 2012 (LC Paper No. CB(1) 1711/11-12) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000814 - 001737	Chairman Administration	Administration's explanation on its response to issues raised by members at the meeting on 18 April 2012 (LC Paper No. CB(1) 1730/11-12(01)).	
001738 - 002241	Mr Ronny TONG Administration	Mr Ronny TONG's concern that the phrase "without contravening the land grant and the occupation permit" in clause 6(1) would be used by vendors as a means to avoid regulation by the Bill.  Administration's explanation that it would put the cart before the horse if the Bill applied to the sale of first-hand residential properties in breach of the Buildings Ordinance (Cap. 123) (BO) or land grant conditions (e.g. illegal conversion of commercial/industrial units to residential units), which should be dealt with by the Buildings Department in accordance with BO or by the Lands Department as appropriate.	The Administration to review the phrase "without contravening the land grant and the occupation permit" in clause 6(1) to ensure that this would not be used by vendors as means to avoid regulation by the Bill.
002242 - 002639	Mr IP Kwok-him Administration	Mr IP Kwok-him's enquiry on the application of the Bill to arrangements for flat exchange in redevelopment projects undertaken by the Urban Renewal Authority (URA).  Administration's explanation that under clause 13(3), the undertaking by URA to offer to sell to an eligible person a flat under the Flat-for-flat Scheme would not be regarded as a sale of residential property.	
002640 - 003550	Ms Audrey EU Administration Chairman ALA5	Ms Audrey EU's views -  (a) need to review the proposed exemption for the Hong Kong Housing Authority	The Administration to seriously re-consider the need for the proposed

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		<p>(HA) under clause 10(6), given that the Bill would apply to the sale of Private Sector Participation Scheme flats; and</p> <p>(b) need to explain the date on which the Bill became applicable to a specified residential property where the Agreement for Sale and Purchase (ASP) had been subsequently terminated or declared void by the court.</p> <p>Administration's explanation -</p> <p>(a) the sales practices and clientele of the sale of Home Ownership Scheme (HOS) flats by HA were different from the private market. While not bound by the Bill, HA would endeavour to follow the applicable requirements of the Bill in the sale of HOS flats as far as possible; and</p> <p>(b) Committee Stage amendments would be introduced to improve the drafting of clause 11(6) to clarify the application of the Bill to specified residential property where ASP had been subsequently terminated or declared void by the court.</p>	<p>exemption for HA under clause 10(6).</p>
<p>003551 - 010003</p>	<p>Administration Prof Patrick LAU Chairman Ir Dr Raymond HO Ms Audrey EU Ms Miriam LAU</p>	<p>Continuation of clause-by-clause examination of the Bill.</p> <p>Clause 18 - Contents of sales brochure: information required to be set out</p> <p>Clause 19 - Contents of sales brochure: further information</p> <p>Prof Patrick LAU's views -</p> <p>(a) need to explain the difference between clause 18 and 19, both of which referred to the contents of sales brochure; and</p> <p>(b) need to require the provision of elevation plan.</p> <p>Ms Miriam LAU's concern about the penalty in the event of failure to set out in the sales brochure the requisite information in the order as specified in clause 18.</p>	<p>The Administration to -</p> <p>(a) review the presentation of clauses 18 and 19 to ensure that sales brochures would include all the essential information, particularly floor plan, cross-section plan and elevation plan;</p> <p>(b) review the use of the Chinese rendition of the term "then" in clause 18(2) and other relevant</p>

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		<p>Chairman's request for reviewing the use of the Chinese rendition of the term "then" in clause 18(2) and other relevant clauses in the Bill.</p> <p>Administration's response -</p> <p>(a) the requirements under clause 18 were mandatory while those under clause 19 optional;</p> <p>(b) the requirement for information to be set out in a specified order under clause 18(4) was meant to standardize the format of sales brochures to facilitate comparison by prospective purchasers. Such requirement was currently adopted under the Consent Scheme and agreed by the Steering Committee on the Regulation of the Sale of First-hand Residential Properties by Legislation (the Steering Committee); and</p> <p>(c) would review the presentation of clauses 18 and 19 to ensure that sales brochures would include all the essential information and plans, and also rationalize the groupings of provisions between the two clauses.</p>	<p>clauses in the Bill.</p>
010004 - 010326	Prof Patrick LAU Administration	Clause 20 - Contents of sales brochure: other requirements for information	
010327 - 010756	Administration Chairman Ms Audrey EU	<p>Clause 21 - Sales brochure must not set out other information</p> <p>Ms Audrey EU's concern that vendors could circumvent clause 20 by publishing a sales brochure in compliance with the Bill while preparing a separate publication with aesthetic depictions of the development for distribution to purchasers.</p> <p>Administration's response -</p> <p>(a) vendors were required to provide sales brochures seven days before the sale of specified residential properties; and</p> <p>(b) there were provisions in the Bill prohibiting the dissemination of misleading information in</p>	

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		<p>advertisements and other publications in relation to the sale of specified residential properties.</p>	
010757 - 011730	<p>Administration Ms Miriam LAU Ir Dr Raymond HO</p>	<p>Clause 22 - Sales brochure to be printed bilingually</p> <p>Ms Miriam LAU's concerns -</p> <p>(a) whether other ordinances had similar provisions governing the font sizes for English letters/Chinese characters and numbers; and</p> <p>(b) the relatively heavy penalty for minor offence of using wrong font sizes in sales brochures.</p> <p>Ir Dr Raymond HO's enquiry on whether legislation related to insurance had similar requirements font sizes.</p> <p>Administration's explanation -</p> <p>(a) there were complaints that the font sizes used for certain important information in sales brochures were too small and not reasonably readable; and</p> <p>(b) the Steering Committee had thoroughly discussed the requirements on font sizes in sales brochure as reflected under clause 22. There should not be any difficulty for vendors to comply with these requirements.</p>	<p>The Administration to -</p> <p>(a) provide illustrations on the prescribed font sizes for English letters/Chinese characters and numbers under clauses 22(2); and</p> <p>(b) advise the reason for imposing relatively heavy penalty for minor offence of using wrong font sizes, and the applicability of the same provision to other existing ordinances, particularly those related to insurance.</p>
011731 - 011920	Administration	<p>Clause 23 - Sales brochure to be made available to general public</p>	
011921 - 012000	Administration	<p>Clause 24 - Application of sections 16 to 23 in case of phased development</p>	
012001 - 012251	<p>Administration Ms Miriam LAU</p>	<p>Clause 25 - Application of Schedule 1</p> <p>Ms Miriam LAU's enquiry/view -</p> <p>(a) whether offences under Parts 2 and 3 were strict liabilities; and</p> <p>(b) need to review the propriety of the levels of penalties for these offences.</p>	<p>The Administration to -</p> <p>(a) advise whether offences under Parts 2 and 3 were strict liabilities; and</p> <p>(b) review the</p>



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		<p>Administration's explanation on the various general principles in setting the proposed penalty levels for offences under the Bill, and that it was a defence under clause 67 if a person had taken all reasonable precautions and exercised due diligence to avoid the commission of the offences under Parts 2 and 3.</p>	<p>propriety of the levels of penalties for these offences.</p>
<p>012252 - 020131</p>	<p>Administration ALA5 Ms Audrey EU Ms Miriam LAU Chairman Mr Alan LEONG Ms Audrey EU</p>	<p>Clause 26 - Price list to be prepared by vendor</p> <p>Discussion on ALA5's letter to the Administration dated 25 April 2012 (LC Paper No. CB(1) 1730/11-12(03)) regarding the need for a revised price list if there was a change in price.</p> <p>Chairman's concern about the practicality of providing a revised price list three days before the sale of specified residential property lest this might pre-empt price negotiations, particularly those purchasers who wished to buy more units at a discounted price.</p> <p>Ms Miriam LAU's similar concern that the requirement for a revised price list whenever there was a change in the price was impractical and might prevent purchasers from negotiating for a lower price.</p> <p>Ms Audrey EU's views -</p> <p>(a) need to review clause 26(4) to better reflect the policy intent of requiring a vendor to make available a revised price list before changing the price of a specified residential property; and</p> <p>(b) need to provide with illustrations the application of clause 26(4) to circumstances (such as negotiation of prices after publication of price lists).</p> <p>Administration's explanation -</p> <p>(a) vendor was required under clause 29 to make available the relevant price list to the general public on the day of sale and during a period of at least three days before the sale of specified residential</p>	<p>The Administration to -</p> <p>(a) review clause 26(4) to better reflect the policy intent of requiring a vendor to make available a revised price list before changing the price of a specified residential property; and</p> <p>(b) provide with illustrations the application of clause 26(4) to circumstances (such as negotiation of prices after publication of price lists) and possible contraventions.</p>

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		<p>property, which was an existing requirement under the Consent Scheme and REDA's guidelines, and the requirement had been working well;</p> <p>(b) where there was a change in the price, the vendor would need to make available a revised price list three days before the sale of specified residential property. The requirement for a revised price list was meant to improve the transparency in the setting of prices; and</p> <p>(c) any terms of payment, offer or discount to be provided had to be set out in the price lists.</p>	
020132 - 020214	Chairman	Date of next meeting.	