

立法會
Legislative Council

LC Paper No. CB(1) 2526/11-12
(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 seventh meeting
held on Tuesday, 15 May 2012, at 10:45 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 James TO Kun-sun
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
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Paul CHAN Mo-po, MH, JP
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Tanya CHAN
- Members absent** : Hon Miriam LAU Kin-ye, GBS, JP
Hon Starry LEE Wai-king, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
- Public officers attending** : **For item I**

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

Miss Jacqueline CHUNG
Council Secretary (1)1

I. 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) 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
- LC Paper No. CB(1) 1779/11-12(01) — Administration's response to CB(1) 1730/11-12(03)
- LC Paper No. CB(1) 1779/11-12(02) — List of follow-up actions arising from the discussion at the meeting on 2 May 2012
- LC Paper No. CB(1) 1861/11-12(01) — Administration's response to CB(1) 1779/11-12(02)
- LC Paper No. CB(1) 1861/11-12(02) — List of follow-up actions arising from the discussion at the meeting on 9 May 2012
- LC Paper No. CB(1) 1861/11-12(03) — Letter from The Real Estate Developers Association of Hong Kong)

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) advise the requirements under the Bill which could not fit squarely into the mode of sale of Home Ownership Scheme (HOS) flats, and the rationale for the Bill to cover Private Sector Participation Scheme flats which adopted the same mode of sale as HOS. To also advise if the exemption for the Hong Kong Housing Authority under clause 10(6) could apply to private developers if the latter adopted the same mode of sale as HOS in disposing of their residential flats;

- (b) advise if there was provision in the Bill which prohibited the inclusion of important information (such as rider or proviso) in the footnote (the font size of which was 8 point Times New Roman/新細明體), which could qualify or restrict the main context (the font size of which is 10 point Times New Roman/新細明體);
- (c) further consult the Consumer Council and the trade on clause 43(3) to ensure that this would not unduly affect the actual operation of the trade;
- (d) review clause 44(1)(b) to avoid confusion as "gross floor area (GFA)" was used in building plans for property which was different from "saleable area" for flats under the Bill. To this end, consideration should be given to formulating a standardized definition of GFA; and
- (e) provide overseas regulation and experience on the cooling period and forfeiture of deposit in the event of rescission of agreement for sale and purchase, as well as the arrangement for these matters under HOS and Tenants Purchase Scheme. To also consider extending the cooling period to five days and reducing the preliminary deposit from 5% to 2%.

3. Members agreed to continue discussion at the next meeting to be held on 15 May 2012 at 2:30 pm.

II. Any other business

4. There being no other business, the meeting ended at 12:28 pm.

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

**Proceedings of the seventh meeting
on Tuesday, 15 May 2012, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Meeting with the Administration</i>			
000706 - 000822	Chairman	Opening remarks.	
008023 - 001932	Administration	Administration's explanation on its response to issues raised by members at the meeting on 2 May 2012 (LC Paper No. CB(1) 1861/11-12(01)).	
001933 - 003053	Mr Abraham SHEK Chairman Administration	<p>Mr Abraham SHEK's view -</p> <p>(a) need for early response to issues raised by the Real Estate Developers Association (REDA); and</p> <p>(b) need to advise if the exemption for the Hong Kong Housing Authority (HA) under clause 10(6) could apply to private developers if the latter adopted the same mode of sale as Home Ownership Scheme (HOS) in disposing of their residential flats.</p> <p>Administration's response -</p> <p>(a) the response to deputations' views was under preparation and would be made available to members at the meeting on 22 May 2012; and</p> <p>(b) the sales practices and clientele of the sale of HOS flats by HA were quite different from the private market. The proposed measures under the Bill aimed to address the problem identified in the sale of private first-hand residential properties.</p>	The Administration to advise if the exemption for HA under clause 10(6) could apply to private developers if the latter adopted the same mode of sale as HOS in disposing of their residential flats.
003054 - 003750	Ms Audrey EU Administration Chairman	<p>Ms Audrey EU's enquiries -</p> <p>(a) the requirements under the Bill which could not fit squarely into the mode of sale of HOS flats; and</p> <p>(b) the rationale for the Bill to cover Private Sector Participation Scheme (PSPS)</p>	The Administration to advise the requirements under the Bill which could not fit squarely into the mode of sale of HOS flats, and the rationale for the Bill

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		<p>flats which adopted the same mode of sale as HOS.</p> <p>Administration's response that there were technical difficulties in applying various requirements under the Bill to HA. For instance, buildings constructed by HA did not require prior approval and consent from the Buildings Authority (BA) and therefore did not have approved building plans.</p>	<p>to cover PSPS flats which adopted the same mode of sale as HOS.</p>
003751 - 003930	Prof Patrick LAU	<p>Prof Patrick LAU's views -</p> <p>(a) while prior approval and consent from BA were not required, HA adopted very stringent requirements on building plans; and</p> <p>(b) to facilitate better understanding, need to provide the requirements under the Bill which could not fit squarely into the mode of sale of HOS flats.</p>	
003931 - 004725	Ms Audrey EU Administration Chairman	<p>Ms Audrey EU's enquiry on whether there was provision in the Bill which prohibited the inclusion of important information (such as rider or proviso) in the footnote (the font size of which was 8 point Times New Roman/新細明體), which could qualify or restrict the main context (the font size of which is 10 point Times New Roman/新細明體).</p> <p>Administration's response that important information on the property should be contained in the main text of the sales brochure. Nevertheless, it would look into the relevant clauses in the Bill and see whether improvement to the drafting of those clauses was required.</p>	<p>The Administration to advise if there was provision in the Bill which prohibited the inclusion of important information (such as rider or proviso) in the footnote (the font size of which was 8 point Times New Roman/新細明體), which could qualify or restrict the main context (the font size of which is 10 point Times New Roman/新細明體).</p>
004726 - 004840	Mr Abraham SHEK Chairman	<p>Mr Abraham SHEK's request for consulting the trades regarding the Committee Stage amendments (CSAs) to clause 26(4) in relation to revision of price lists.</p>	
004841 - 005658	Administration Mr Abraham SHEK Chairman	<p>Continuation of clause-by-clause examination of the Bill</p> <p>Clause 43 - Sales arrangements to be made available on website</p>	<p>The Administration to further consult the Consumer Council and the trade on</p>

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		<p>Administration's explanation that specific expression of interest would only be allowed after the residential property was offered for sale.</p> <p>Mr Abraham SHEK's request for further consultation with the Consumer Council and the trade on clause 43(3) to ensure that this would not unduly affect the actual operation of the trade.</p>	<p>clause 43(3) to ensure that this would not unduly affect the actual operation of the trade.</p>
005659 - 011629	<p>Administration Mr Abraham SHEK Prof Patrick LAU Chairman</p>	<p>Clause 44 - Plans and documents to be made available to general public</p> <p>Discussion on the use of "gross floor area (GFA)" in building plans and the use of "saleable area (SA)" for flats under the Bill.</p> <p>Mr Abraham SHEK and Prof Patrick LAU's view that clause 44(1)(b) should be reviewed to avoid confusion as GFA was used in building plans for property which was different from SA for flats under the Bill.</p>	<p>The Administration to review clause 44(1)(b) to avoid confusion as "GFA" was used in building plans for property which was different from "SA" for flats under the Bill. To this end, consideration should be given to formulating a standardized definition of GFA.</p>
011630 - 011718	Administration	<p>Clause 45 - Deed of mutual covenant and aerial photograph to be made available on website</p>	
011719 - 011950	Administration	<p>Clause 46 - Floor plan of specified residential property</p> <p>Administration's advice that CSAs would be introduced to standardize the requirement on dimensions of furniture in the floor plans under clause 46 and proposed section 10(2) of Schedule 1.</p>	
011951 - 012035	Administration	<p>Clause 47 - Application of sections 43 to 45 in case of phased development</p>	
012036 - 012205	Administration	<p>Clause 48 - Deposit on entering into preliminary agreement</p>	
012206 - 013519	<p>Administration Mr LEE Cheuk-yan Mr LEE Wing-tat Chairman Ms Audrey EU</p>	<p>Clause 49 - Execution of agreement for sale and purchase</p> <p>Mr LEE Cheuk-yan views -</p> <p>(a) cooling period should be extended from</p>	<p>The Administration provide overseas regulation and experience on the cooling period and forfeiture of deposit</p>

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		<p>three days to five days; and</p> <p>(b) preliminary deposit should be reduced from 5% to 2%.</p> <p>Mr LEE Wing-tat's request for extending the cooling period.</p> <p>Ms Audrey EU's request for information on the cooling period and forfeiture of deposit in the event of rescission of agreement for sale and purchase under HOS and Tenants Purchase Scheme.</p> <p>Administration's explanation -</p> <p>(a) the lowering of the forfeiture amount from the existing 10% to 5% as proposed under the Bill had taken into account the volatility of the market and the exuberance of speculative activities, as well as the need to deter abuse by speculators or hasty purchase decisions by prospective purchasers; and</p> <p>(b) different economies had their unique characteristics of the residential property market and had formulated different "cooling-off" arrangement (if any) and forfeiture policy to suit their needs. The Administration had made reference to the cooling-off period and the forfeiture amount of various economies.</p>	<p>in the event of rescission of agreement for sale and purchase, as well as the arrangement for these matters under HOS and Tenants Purchase Scheme. To also consider extending the cooling period to five days and reducing the preliminary deposit from 5% to 2%.</p>
013520 - 014048	Administration Assistant Legal Adviser 5	<p>Clause 50 - Owner must not enter into preliminary agreement or agreement without certain provisions</p> <p>Discussion on the use of the term "owner" under clauses 48, 49 and 50.</p>	
014049 - 014205	Mr Abraham SHEK	Mr Abraham SHEK's concern about clashing of meetings which would indeed affect the scrutiny of the Bill.	
014206 - 014242	Chairman	Date of next meeting.	