

立法會
Legislative Council

LC Paper No. CB(1) 2531/11-12
(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 twelfth meeting
held on Tuesday, 29 May 2012, at 2:30 pm
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 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 Mrs Regina IP LAU Suk-yeet, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Tanya CHAN

Members absent : Hon Miriam LAU Kin-yeet, GBS, JP
Hon Starry LEE Wai-king, 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

I. Meeting with the Administration

Relevant papers

- LC Paper No. CB(3) 570/11-12 — The Bill
- The Legislative Council Brief (*issued by the Transport and Housing Bureau on 13 March 2012*)
- LC Paper No. LS47/11-12 — Legal Service Division Report
(*issued on 21 March 2012*)
- LC Paper No. CB(1) 1598/11-12(03) — Assistant Legal Adviser's letters
(*issued for the meeting on 18 April 2012*) dated 12 April 2012 to the Administration
- LC Paper No. CB(1) 1598/11-12(04) — Administration's response to
(*issued for the meeting on 18 April 2012*) CB(1) 1598/11-12(03)
- LC Paper No. CB(1) 1936/11-12(01) — A table showing the offences in
(*issued for the meeting on 22 May 2012*) the Residential Properties (First-hand Sales) Bill provided by the Administration in response to CB(1) 1598/11-12(03)
- LC Paper No. CB(1) 1730/11-12(03) — Assistant Legal Adviser's letter
(*issued for the meeting on 2 May 2012*) dated 25 April 2012 to the Administration
- LC Paper No. CB(1) 1779/11-12(01) — Administration's response to
(*issued for the meeting on 9 May 2012*) CB(1) 1730/11-12(03)
- LC Paper No. CB(1) 2011/11-12(01) — Administration's response to
(*issued for the meeting on 28 May 2012*) CB(1) 1730/11-12(03)
- LC Paper No. CB(1) 1730/11-12(02) — List of follow-up actions arising
(*issued for the meeting on 2 May 2012*) from the discussion at the meeting on 24 April 2012
- LC Paper No. CB(1) 1936/11-12(02) — Administration's response to
(*issued for the meeting on 22 May 2012*) CB(1) 1730/11-12(02)

LC Paper No. CB(1) 1861/11-12(02) — List of follow-up actions arising
(*issued for the meeting on* from the discussion at the
15 May 2012) meeting on 9 May 2012

LC Paper No. CB(1) 1998/11-12(02) — Administration's response to
(*issued for the meeting on* CB(1) 1861/11-12(02)
28 May 2012)

LC Paper No. CB(1) 1936/11-12(03) — List of follow-up actions arising
(*issued for the meeting on* from the discussion at the
22 May 2012) meeting on 15 May 2012

LC Paper No. CB(1) 2014/11-12(01) — Administration's response to
(*issued for the meeting on* CB(1) 1936/11-12(03)
28 May 2012)

LC Paper No. CB(1) 1968/11-12(01) — List of follow-up actions arising
(*issued for the meeting on* from the discussion at the
24 May 2012) meeting on 22 May 2012

LC Paper No. CB(1) 1998/11-12(01) — List of follow-up actions arising
(*issued for the meeting on* from the discussion at the
28 May 2012) meeting on 24 May 2012

LC Paper No. CB(1) 2031/11-12(01) — Letter from Hon Abraham SHEK
(*issued for the meeting on* dated 28 May 2012 (English
28 May 2012) version only)

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

2. The Administration was requested to -

- (a) include in the speech to be delivered by the Secretary for Transport and Housing at the resumption of Second Reading debate on the Bill an undertaking that despite being exempted from the application of the Bill, the Hong Kong Housing Authority would endeavour to follow the requirements under the Bill as far as practicable in the sale of flats under the Home Ownership Scheme; and
- (b) consider including in proposed section 27 of Schedule 5 and similar sections of other Schedules a provision to enable the Purchaser to serve a notice to request the Vendor to remedy any defects relate to or affect the Property or the common areas or

common parts and common facilities of the Development, and the time limit within which the Vendor shall make good these defects.

3. Members agreed to continue discussion on the Bill at the next meeting scheduled for Thursday, 31 May 2012, at 10:45 am.

II. Any other business

4. There being no other business, the meeting ended at 4:25 pm.

Council Business Division 1
Legislative Council Secretariat
5 September 2012

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

**Proceedings of the twelfth meeting
on Tuesday, 29 May 2012, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Meeting with the Administration</i>			
000533 - 000623	Chairman	Opening remarks	
000624 - 002531	Administration Chairman	Administration's explanation on its response to issues raised by members at the meeting on 9 May 2012 (LC Paper No. CB(1) 1998/11-12(02)).	
002532 - 004504	Administration Chairman	Administration's explanation on its response to issues raised by members at the meeting on 15 May 2012 (LC Paper No. CB(1) 2014/11-12(03)).	
004505 - 004723	Chairman	Chairman's request for the Administration to include in the speech to be delivered by the Secretary for Transport and Housing at the resumption of Second Reading debate on the Bill an undertaking that despite being exempted from the application of the Bill, the Hong Kong Housing Authority would endeavour to follow the requirements under the Bill as far as practicable in the sale of flats under the Home Ownership Scheme (HOS).	The Administration to include in the speech to be delivered by the Secretary for Transport and Housing at the resumption of Second Reading debate on the Bill an undertaking that despite being exempted from the application of the Bill, the Hong Kong Housing Authority would endeavour to follow the requirements under the Bill as far as practicable in the sale of flats under HOS.
004724 - 004818	Chairman Administration	Continuation of clause-by-clause examination of the Bill Clause 83 - Amendment of Schedules	
004819 - 005143	Chairman Administration	<u>Schedule 1 - Information in sales brochure</u>	

Time marker	Speaker	Subject(s)	Action required
		<p><i>Part 1 - Detailed requirements for specific information required to be set out</i></p> <p>Section 1 - Information on the development</p>	
005144 - 005233	Chairman Administration	Section 2 - Information on vendor and others involved in the development	
005234 - 005325	Administration Chairman	Section 3 - Relationship between parties involved in the development	
005326 - 005401	Administration	Section 4 - Information on design of the development	
005402 - 005437	Administration	Section 5 - Information on property management	
005438 - 005635	Administration	Section 6 - Location plan of the development	
005636 - 005736	Administration	Section 7 - Aerial photograph of the development	
005737 - 005813	Administration Chairman	Section 8 - Outline zoning plan etc. relating to the development	
005814 - 005949	Administration	Section 9 - Layout plan of the development	
005950 - 010041	Administration	Section 10 - Floor plans of residential properties in the development	
010042 - 010053	Administration	Section 11 - Area of residential properties in the development	
010054 - 010109	Administration	Section 12 - Floor plans of parking spaces in the development	
010110 - 010157	Administration	Section 13 - Summary of preliminary agreement for sale and purchase	
010158 - 010219	Administration	Section 14 - Summary of deed of mutual covenant	
010220 - 010246	Administration	Section 15 - Summary of land grant	
010247 - 010325	Administration	Section 16 - Information on public facilities and public open spaces	
010326 - 010403	Administration	<p><i>Part 2 - Addition information required to be set out</i></p> <p>Section 17 - Warning to purchasers</p>	

Time marker	Speaker	Subject(s)	Action required
010404 - 010448	Administration	Section 18 - Cross-section plan of building in the development	
010449 - 010530	Administration	Section 19 - Information on common facilities in the development	
010531 - 010549	Administration	Section 20 - Inspection of plans and deed of mutual covenant	
010550 - 010634	Administration Chairman	Section 21 - Fittings, finishes and appliances	
010635 - 010653	Administration	Section 22 - Service agreements	
010654 - 010659	Administration	Section 23 - Government rent	
010700 - 010706	Administration	Section 24 - Miscellaneous payments by purchaser	
010707 - 010714	Administration	Section 25 - Defect liability warranty period	
010715 - 010734	Administration	Section 26 - Maintenance of slopes	
010735 - 010754	Administration	Section 27 - Modification	
010755 - 010829	Administration	<i>Part 3 - Further information to follow information required to be set out</i> Section 28 - Information in application for concession on gross floor area of building	
010830 - 010852	Administration	Section 29 - Elevation plan	
010853 - 010922	Administration	<i>Part 4 - Other further information</i> Section 30 - Previous aerial photograph	
010923 - 010940	Administration	Section 31 - Other common facilities	
010941 - 011002	Administration	<i>Part 5 - Application of Schedule 1</i> Section 32 - Application of this Schedule in case of phased development	
011003 - 011022	Administration	Section 33 - Application of this Schedule in case of specified NT development	
011023 - 011137	Administration Chairman	<u>Schedule 2 - Items specified for purposes of definition of saleable area</u>	

Time marker	Speaker	Subject(s)	Action required
011138 - 011216	Administration	<u>Schedule 3 - Entities for purposes of sections 16(2)(b), 23(4)(a) and 29(4)(a)</u>	
011217 - 011637	Administration Chairman	<u>Schedule 4 - Provisions required to be contained in preliminary agreement for sale and purchase</u>	
011638 - 013150	Administration Ms Audrey EU Chairman Administration	<p><u>Schedule 5 - Provisions required to be contained in agreement for sale and purchase (uncompleted development)</u></p> <p><i>Part 1 - Section 16</i></p> <p>Ms Audrey EU's request for the Administration to consult the Law Society of Hong Kong on the provision that "the Vendor shall not restrict the Purchasers' right to raise requisition or objection in respect of title" under proposed section 16 of Schedule 5.</p> <p>The Administration's response that it had explained to the Law Society of Hong Kong the rationale for having the provision that "the Vendor shall not restrict the Purchasers' right to raise requisition or objection in respect of title" in the Bill.</p>	
013151 - 014706	Administration Chairman Ms Audrey EU	<p><i>Section 27</i></p> <p>Ms Audrey EU's request for the Administration to consider including in proposed section 27 of Schedule 5 and similar sections of other Schedules a provision to enable the Purchaser to serve a notice to request the Vendor to remedy any defects relate to or affect the Property or the common areas or common parts and common facilities of the Development, and the time limit within which the Vendor should make good these defects.</p> <p>Administration's response that section 27 of Schedule 5 to the Bill was modelled on the Agreement for Sale and Purchase (ASP) currently used under the Lands Department Consent Scheme (Consent Scheme). The same clause appeared in ASP of the Law Society of Hong Kong for first-hand residential uncompleted developments outside the Consent Scheme where the vendor and the purchaser engaged the same solicitor.</p>	The Administration to consider including in proposed section 27 of Schedule 5 and similar sections of other Schedules a provision to enable the Purchaser to serve a notice to request the Vendor to remedy any defects relate to or affect the Property or the common areas or common parts and common facilities of the Development, and the time limit within which the Vendor should make good these defects.

Time marker	Speaker	Subject(s)	Action required
014707- 015626	Chairman Administration	<u>Schedule 6 - Provisions required to be contained in agreement for sale and purchase (completed development pending compliance)</u>	
015627 - 015640	Chairman	Date of next meeting.	

Council Business Division 1
Legislative Council Secretariat
5 September 2012