

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 2591/11-12  
(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 fourteenth meeting  
held on Tuesday, 5 June 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 Abraham SHEK Lai-him, SBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon Vincent FANG Kang, 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 LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon LEE Wing-tat  
Dr Hon Joseph LEE Kok-long, SBS, 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

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**I. Meeting with the Administration**

- (LC Paper No. CB(1) 1968/11-12(01) — List of follow-up actions arising from the discussion at the meeting on 22 May 2012  
(*issued for the meeting on 24 May 2012*)
- LC Paper No. CB(1) 2048/11-12(02) — Administration's response to item (1) of CB(1) 1968/11-12(01)  
(*issued for the meeting on 31 May 2012*)
- LC Paper No. CB(1) 2066/11-12(02) — Administration's response to items (2) to (5) of CB(1) 1968/11-12(01)  
(*English version issued for the meeting on 31 May 2012*)(*Chinese version to follow*)
- LC Paper No. CB(1) 1998/11-12(01) — List of follow-up actions arising from the discussion at the meeting on 24 May 2012  
(*issued for the meeting on 28 May 2012*)
- LC Paper No. CB(1) 2066/11-12(03) — Administration's response to CB(1) 1998/11-12(01)  
(*issued for the meeting on 31 May 2012*)
- LC Paper No. CB(1) 2070/11-12(01) — Marked-up copy of the Bill showing the Committee Stage amendments proposed by the Administration (as at May 2012)  
(*English version issued for the meeting on 31 May 2012*)  
(*Chinese version to follow*)
- LC Paper No. CB(1) 2066/11-12(04) — Assistant Legal Adviser's letters dated 29 May 2012 to the Administration  
(*issued for the meeting on 31 May 2012*)
- LC Paper No. CB(1) 2086/11-12(01) — Administration's response to CB(1) 2066/11-12(04)  
(*Chinese version to follow*)
- LC Paper No. CB(1) 2086/11-12(02) — List of follow-up actions arising from the discussion at the meeting on 29 May 2012
- LC Paper No. CB(1) 2086/11-12(03) — List of follow-up actions arising from the discussion at the meeting on 31 May 2012
- LC Paper No. CB(1) 2086/11-12(04) — Letter from Hon Abraham SHEK dated 31 May 2012 responding to the Administration's response to the issues raised in the joint legal opinion submitted by the Real Estate Developers Association of Hong Kong (Annex to LC Paper No. CB(1) 2066/11-12(02))  
(English version only))

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 dated 12 April 2012 to the*  
*18 April 2012*) Administration

LC Paper No. CB(1) 1598/11-12(04) — Administration's response to  
(*issued for the meeting on CB(1) 1598/11-12(03)*  
*18 April 2012*)

LC Paper No. CB(1) 1936/11-12(01) — A table showing the offences in  
(*issued for the meeting on the Residential Properties*  
*22 May 2012*) (First-hand Sales) Bill provided  
by the Administration in  
response to  
CB(1) 1598/11-12(03)

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

LC Paper No. CB(1) 2048/11-12(01) — List of follow-up actions arising  
(*issued on 30 May 2012*) from the discussion at the  
meeting on 28 May 2012

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

2. The Administration was requested to -

- (a) advise whether creative ideas presented in television commercial on a specified first-hand residential property which deviated from the material facts constituted a dissemination of false/misleading information or misrepresentation;
- (b) consult the trades on the practicality of requiring vendors to disclose transaction information within the time limit specified in the Bill, given that vendors might have to process a substantial number of property transactions within a day;

- (c) review the definitions of "working day" and "business day" with a view to working out a single definition to cater for all circumstances, and ensuring consistency in the Bill;
  - (d) review the different Chinese renditions of the term "description of property" to ensure consistency;
  - (e) update the table showing the offences in the Bill and the time point for counting the three-year prosecution time limit (LC Paper No. CB(1) 1936/11-12(01)) taking into account the proposed Committee Stage amendments; and
  - (f) advise if the time limit for prosecution under clause 17 started to run from the act of making available the sales brochures to the public. To review clause 17 and consider setting out clearly and expressly the specific act(s) prohibited under the clause. To also review other clauses in the Bill along the line.
3. Members agreed to continue discussion on the Bill at the next meeting scheduled for the same day at 2:30 pm.

## **II. Any other business**

4. There being no other business, the meeting ended at 10:40 am.

Council Business Division 1  
Legislative Council Secretariat  
18 September 2012

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

**Proceedings of the fourteenth meeting  
on Tuesday, 5 June 2012, at 8:30 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>			
001252 - 001856	Chairman Mr Ronny TONG	<p>Given the Administration's intention to resume Second Reading debate on the Bill at the Council meeting on 27 June 2012, the Chairman sought members' agreement for him to deliver a verbal report on the deliberations of the Bills Committee at the House Committee meeting on 8 June 2012. Additional meetings would also need to be held to complete scrutiny of the Bill.</p> <p>The arrangements were agreed by members.</p>	
001857 - 003425	Chairman Administration Prof Patrick LAU	<p>Administration's explanation on its response to issues raised by members at the meeting on 24 May 2012 (Part II) (LC Paper No. CB(1) 2066/11-12(03)).</p> <p>Prof Patrick LAU's enquiry on whether creative ideas presented in television commercial on a specified first-hand residential property which deviated from the material facts constituted a dissemination of false/misleading information or misrepresentation.</p> <p>Administration's explanation that "creativity" and "misleading information" were two different things. There was no intention to stifle creativity. The provisions that regulated false or misleading advertisements in the Bill were in line with other relevant legislation, such as the Estate Agents Ordinance (Cap. 511) and the relevant regulation. The provisions on "advertisements" in the Bill had struck a balance between protecting creativity and ensuring the provision of accurate information. Also, the facts of the case would be looked into in deciding whether the contents of an advertisement on a first-hand residential development constituted a dissemination of false/misleading information or misrepresentation.</p>	<p>The Administration to advise whether creative ideas presented in television commercial on a specified first-hand residential property which deviated from the material facts constituted a dissemination of false/misleading information or misrepresentation.</p>

Time marker	Speaker	Subject(s)	Action required
003426 - 010027	Chairman Administration Prof Patrick LAU Mr Abraham SHEK	<p>Administration's explanation on its response to issues raised by members at the meeting on 22 May 2012 (Part II) (LC Paper No. CB(1) 2066/11-12(02)).</p> <p>Discussion on the time limits within which information on transactions should be disclosed.</p> <p>Mr Abraham SHEK's concern about the practicality of requiring vendors to disclose transaction information within the time limit specified in the Bill given that vendors might have to process a substantial number of property transactions within a day.</p> <p>Administration's explanation that the proposed requirements for disclosure of transaction information as set out in the Bill had struck a balance between ensuring timely dissemination of updated and accurate transaction information in a user-friendly manner and the practical need to give vendors reasonable lead time to make ready the transaction information accurately.</p>	<p>The Administration to consult the trades on the practicality of requiring vendors to disclose transaction information within the time limit specified in the Bill, given that vendors might have to process a substantial number of property transactions within a day.</p>
010028 - 012209	Ms Audrey EU Administration Chairman	<p>Ms Audrey EU's requests for the Administration to -</p> <p>(a) clarify the meaning of business day (營業日) under Clause 52, and how it compared with working day (工作日) as used in other clauses, and whether Saturday would be included as a business day; and</p> <p>(b) review the different Chinese renditions of the term "description of property" to ensure consistency.</p> <p>Prof Patrick LAU's enquiry on the accuracy of the Chinese rendition of "辦公日" under Part 1 of Schedule 7 regarding the provisions for Agreement for Sales and Purchase.</p> <p>Chairman's request for standardization of the definitions of "working day" and "business day".</p>	<p>The Administration to -</p> <p>(a) review the definitions of "working day" and "business day" with a view to working out a single definition to cater for all circumstances, and ensuring consistency in the Bill; and</p> <p>(b) review the different Chinese renditions of the term "description of property" to ensure consistency.</p>

Time marker	Speaker	Subject(s)	Action required
		Administration's explanation that "working day" and "business day" were used under different context under the Bill. Consideration would be given to standardizing the definitions of the two terms.	
012210 - 012647	Chairman Mr Abraham SHEK Clerk Prof Patrick LAU	Discussion on the schedule of meetings of the Bills Committee.	
012648 - 013319	Chairman Administration	Continuation of clause-by-clause examination of the Bill  Schedule 7 – Provisions Required to be Contained in Agreement for Sale and Purchase (Completed Development that is not Completed Development Pending Compliance)	
013320 - 014008	Chairman Administration Mr Abraham SHEK	Schedule 8 – Vendor's Information Form	
014009 - 020932	Chairman Administration Mr Abraham SHEK Ms Audrey EU Prof Patrick LAU	Discussion on the table of offences under the Residential Properties (First-hand Sales) Bill (LC Paper No. CB(1) 1936/11-12(01)).  Ms Audrey EU's request for the Administration to set out clearly and expressly in clause 17 and other clauses the specific act(s) to be prohibited under these clauses.	The Administration to -  (a) update the table showing the offences in the Bill and the time point for counting the three-year prosecution time limit taking into account the proposed Committee Stage amendments; and  (b) advise if the time limit for prosecution under clause 17 started to run from the act of making available the sales brochures to the public. To



Time marker	Speaker	Subject(s)	Action required
			review clause 17 and consider setting out clearly and expressly the specific act(s) prohibited under the clause. To also review other clauses in the Bill along the line.
020933 - 021017	Chairman Mr Abraham SHEK	Date of next meeting.	

Council Business Division 1  
Legislative Council Secretariat  
18 September 2012