

立法會
Legislative Council

LC Paper No. CB(1) 2592/11-12
(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 fifteenth meeting
held on Tuesday, 5 June 2012, at 2:30 pm
in Conference Room 2B 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
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-ye, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Tanya CHAN
- Members absent** : Hon Miriam LAU Kin-ye, GBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon LEE Wing-tat
Hon Starry LEE Wai-king, 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

I. Meeting with the Administration

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

2. The Administration was requested to -
 - (a) advise the officer who would be held liable in the event of non-compliance with Division 1 of the Bill by the Hong Kong Housing Authority. To also provide a paper setting out the officers of the specified bodies, including the Urban Renewal Authority, Hong Kong Housing Society and MTR Corporation Limited, in the event of non-compliance with the provisions under the Bill;
 - (b) review the Chinese rendition of the term "qualifies" in the proposed Committee Stage amendments (CSAs) in relation to clause 22(7); and
 - (c) review the proposed CSA in relation to 26(4) to require the vendor to reflect any change to the price of a specified residential property in a new price list to which the property was to be covered.
3. Members agreed to hold two additional meetings on Thursday, 7 June 2012, at 8:30 am and 10:45 am to continue discussion on the Bill.

II. Any other business

4. There being no other business, the meeting ended at 4:45 pm.

Council Business Division 1
Legislative Council Secretariat
18 September 2012

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

**Proceedings of the fifteenth meeting
on Tuesday, 5 June 2012, at 2:30 pm
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Meeting with the Administration</i>			
000632 - 000954	Chairman Administration	Members' agreement to hold two additional meetings on Thursday, 7 June 2012, at 8:30 am and 10:45 am.	
000955 - 001137	Chairman Administration	Examination of the Committee Stage amendments (CSAs) proposed by the Administration (LC Paper No. CB(1) 2070/11-12(01)). Clause 1 - Short title and commencement	
001138 - 002341	Administration Ms Audrey EU Chairman Assistant Legal Adviser 5 (ALA5)	Clause 2 - Interpretation Ms Audrey EU's enquiry on whether the reference to "child" under the definition of "immediate family member" would include illegitimate and adopted child. Administration's explanation that the term "child" should be construed according to the natural meaning of the word, and would not include illegitimate and adopted child.	
002342 - 002427	Administration	Clause 4 - Interpretation: completed, uncompleted development and phase etc.	
002428 - 002556	Administration	Clause 6 - Interpretation: residential property	
002557 - 002638	Administration	Clause 7 - Interpretation: vendor	
002639 - 002733	Administration	Clause 8 - Interpretation: saleable area and related expressions	
002734 - 002745	Administration	Clause 9 - Interpretation provisions not applicable to Schedules 4 to 7	
002746 - 003438	Administration	Clause 10 - Application of this Ordinance Administration's explanation that the proposed CSAs to clauses 10 and 55B aimed to ring fence the scope of exemptions for the sale of developments constructed by the Hong Kong Housing Authority (HA).	

Time marker	Speaker	Subject(s)	Action required
		<p>While HA would be exempted from the application of Part 2 of the Bill (in relation to sales brochures, price list, show flats for uncompleted development or phase, viewing of property in completed development or phase, sales arrangements, preliminary agreement and agreement, and dissemination of transaction information), it would still be required to comply with the requirements on advertisements and held criminally liable for breaching the other provisions in the Bill (including misrepresentation or dissemination of false or misleading information).</p> <p>Administration's explanation that HA had observed the administrative regulatory measures applicable to the sale of uncompleted first-hand residential properties in the sale of Home Ownership Scheme (HOS) flats in the past. Notwithstanding that HA would not be subject to Part 2 of the Bill under the proposed CSA, it would continue to sell HOS flats in accordance with the principle of transparency as reflected in Part 2 of the Bill in future.</p>	
003439 - 004729	<p>Mr Abraham SHEK Administration Chairman Prof Patrick LAU</p>	<p>Mr Abraham SHEK's view/enquiry -</p> <p>(a) the Bill should apply across the board to the sale of all first-hand residential properties, including those of HA; and</p> <p>(b) the officer who would be held liable in the event of non-compliance with Division 1 of the Bill by HA.</p> <p>Prof Patrick LAU's enquiry on the officers of the specified bodies who would be held liable in the event of non-compliance with the provisions under the Bill.</p> <p>Administration's explanation -</p> <p>(a) under clause 72 of the Bill, officer (in relation to a specified body) meant a director, secretary or manager of the specified body, and included any person who occupied the position of director, secretary or manager (by whatever named called) in the specified body. While different specified bodies had</p>	<p>The Administration to advise the officer who would be held liable in the event of non-compliance with Division 1 of the Bill by HA.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>different organization structures and the post titles of their "officers" might not be exactly the same as those mentioned in the Bill, it was the nature of the post and not the title of the post-holder that mattered; and</p> <p>(b) an "officer" would only be held liable if it was proved that the commission of the offence was aided, abetted, counselled, procured or induced by, or the offence was committed with the consent or connivance of or was attributable to any recklessness on the part of that "officer".</p>	
004730 - 005401	Ms Audrey EU Administration Chairman	Ms Audrey EU's concern that HA would still be exempted from most of the requirements under Part 2 of the Bill.	
005402 - 010047	Mr Abraham SHEK Chairman Prof Patrick LAU	<p>Mr Abraham SHEK's request to put on record his view that the Bill should equitably apply to all first-hand residential properties, and that the exemptions for HA would deprive purchasers of HOS flats of the needed protection.</p> <p>Prof Patrick LAU's view that some requirements under Part 2 of the Bill should apply to HA.</p>	
010048 - 010313	Ms Audrey EU Administration Chairman	Ms Audrey EU's request for a paper setting out the officers of the specified bodies, including the Urban Renewal Authority, Hong Kong Housing Society and MTR Corporation Limited, in the event of non-compliance with the provisions under the Bill.	The Administration to provide a paper setting out the officers of the specified bodies, including the Urban Renewal Authority, Hong Kong Housing Society and MTR Corporation Limited, in the event of non-compliance with the provisions under the Bill.
010313 - 010743	Administration Chairman	Clause 11 - Provision supplementary to section 10(1): agreement or assignment to be disregarded	
010744 - 010830	Administration	Clause 12 - Interpretation of part 2	

Time marker	Speaker	Subject(s)	Action required
010831 - 010906	Administration	Clause 16 - Prohibition on preparation of sales brochures by other person	
010907 - 011611	Administration Chairman Ms Audrey EU	Clause 18 - Contents of sales brochure: Information required to be set out	
011612 - 011703	Administration	Clause 19 - Contents of sales brochure: further information	
011704 - 011708	Administration	Clause 20 - Contents of sales brochure: other requirements for information	
011709 - 011741	Administration	Clause 21 - Sales brochure must not set out other information	
011742 - 011839	Administration Ms Audrey EU	Clause 22 - Sales brochure to be printed bilingually Ms Audrey EU's request to review the Chinese rendition of the term "qualifies" in the proposed CSAs in relation to clause 22(7).	The Administration review the Chinese rendition of the term "qualifies" in the proposed CSAs in relation to clause 22(7).
011840 - 012023	Administration	Clause 23 - Sales brochure to be made available to the public	
012024 - 012038	Administration	Clause 24 - Application of sections 16A to 23 in case of phased development	
012039 - 013457	Administration Ms Audrey EU Chairman	Clause 26 - Price list to be prepared by vendor Discussion on the need to reflect any change to the price of a specified residential property in a new price list to which the property was to be covered. The Administration's explanation that if the Bill did not specify that vendors had to reflect any change to the price of a specified residential property in the price list where the original price was stated, vendors might use different methods to disclose the changes which would not be easy for prospective purchasers to notice and keep track of the changes.	The Administration to review the proposed CSA in relation to 26(4) to require the vendor to reflect any change to the price of a specified residential property in a new price list to which the property was to be covered.
013458 - 013609	Ms Audrey EU Administration Chairman	Discussion on the need to shorten the timeframe within which vendors should examine/update the sale brochures under clause 23(9) from six months to three months.	

Time marker	Speaker	Subject(s)	Action required
013610 - 013739	Administration	Clause 28 - Contents of price list	
013740 - 021832	Administration Chairman Mr Abraham SHEK Ms Audrey EU	<p>Clause 29 - Price list to be made available to general public</p> <p>Discussion on "relevant price list" as defined in clause 29(7).</p> <p>Administration's explanation that the requirement for vendor to provide the prices of a minimum number of residential properties in each of the price lists of a development or phase, without going further to require the vendor to offer for sale all the residential properties in the price lists, aimed to strike a balance between enhancing consumer protection and allowing developers to continue to make business decisions in the light of changing market situations.</p>	
021833 - 022053	Chairman Prof Patrick LAU	Date of next meeting	