

立法會
Legislative Council

LC Paper No. CB(1) 2593/11-12
(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 sixteenth meeting
held on Thursday, 7 June 2012, at 8:30 am
in Conference Room 2A of the Legislative Council Complex

Members present : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon LEE Wing-tat
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Tanya CHAN

Members absent : 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 Vincent FANG Kang, SBS, JP
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon Starry LEE Wai-king, JP
Hon Paul CHAN Mo-po, MH, JP
Hon WONG Kwok-kin, BBS
Hon Mrs Regina IP LAU Suk-ye, GBS, 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

Mr Godfrey KAN
Senior Assistant Solicitor General (Human Rights) (Ag)

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

- (LC Paper No. CB(1) 2048/11-12(01) — List of follow-up actions arising from the discussion at the meeting on 28 May 2012
(issued for the meeting on 31 May 2012))
- LC Paper No. CB(1) 2109/11-12(02) — Administration's response to CB(1) 2048/11-12(01)
(English version issued for the meeting on 5 June 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 issued for the meeting on 5 June 2012)
- LC Paper No. CB(1) 2110/11-12(01) — List of follow-up actions arising from the discussion at the meetings on 5 June 2012
- LC Paper No. CB(1) 2110/11-12(02) — Submission from The Law Society of Hong Kong (English version only)
- 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
(issued for the meeting on 5 June 2012)
- LC Paper No. CB(1) 2120/11-12(01) — Administration's response to CB(1) 2086/11-12(02)
- 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
(issued for the meeting on 5 June 2012)
- LC Paper No. CB(1) 2120/11-12(02) — Administration's response to CB(1) 2086/11-12(03)
- 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))
(issued for the meeting on 5 June 2012)
(English version only)

LC Paper No. CB(1) 2120/11-12(03) — Administration's response to CB(1) 2086/11-12(04))

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) 2066/11-12(04) — Assistant Legal Adviser's letters
(*issued for the meeting on dated 29 May 2012 to the*
31 May 2012) Administration

LC Paper No. CB(1) 2086/11-12(01) — Administration's response to
(*issued for the meeting on CB(1) 2066/11-12(04)*
5 June 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) justify the need for the creation of the post of Authority when the Bill had express provisions governing the sale of first-hand residential properties. To advise how the Authority would supervise the compliance with Parts 2, 3 and 4 of the Bill. To also advise if the manpower requirement to assist the Authority would be absorbed within the existing resources of the Transport and Housing Bureau and if not, the number of new posts to be created;

- (b) provide the outline/framework of the guidelines to be issued by the Authority; and
- (c) advise whether it would be a contravention to the existing laws (including the Basic Law and Hong Kong Bill of Rights) to require vendors to offer for sale all the residential properties covered in a price list.

3. Members agreed to continue discussion at the next meeting scheduled for the same day at 10:45 am.

II. Any other business

4. There being no other business, the meeting ended at 10:45 am.

Council Business Division 1
Legislative Council Secretariat
18 September 2012

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

**Proceedings of the sixteenth meeting
on Thursday, 7 June 2012, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Meeting with the Administration</i>			
001104 - 002125	Chairman Administration	Administration's explanation on its response to issues raised by members at the meeting on 28 May 2012 (LC Paper No. CB(1) 2109/11-12(02)).	
002126 - 002414	Mr Abraham SHEK Chairman Administration	<p>Mr Abraham SHEK's request for the Administration to provide the outline/framework of the guidelines to be issued by the Enforcement Authority (the Authority).</p> <p>Administration's explanation that subject to the passage of the Bill, it would work out the list of guidelines to be issued by the Authority based on the final provisions of the Ordinance. The Administration's preliminary view was that guidelines would be issued to provide guidance on the operation of Part 2 of the Bill. Relevant stakeholders would be engaged in preparing the guidelines.</p>	The Administration to provide the outline/framework of the guidelines to be issued by the Authority.
002415 - 005105	Prof Patrick LAU Mr Abraham SHEK Administration Chairman	<p>Prof Patrick LAU's enquiry on the role of the Authority in ensuring compliance with the Bill, particularly in respect of sales brochures and show flats.</p> <p>Mr Abraham SHEK's enquiries -</p> <p>(a) the need for the post of Authority when the Bill had express provisions governing the sale of first-hand residential properties; and</p> <p>(b) whether the manpower requirement to assist the Authority could be absorbed within the existing resources of the Transport and Housing Bureau (THB).</p> <p>Administration's explanation -</p> <p>(a) it was necessary that an Authority be appointed to, among other things, administer the provisions in the</p>	The Administration to justify the need for the creation of the post of Authority when the Bill had express provisions governing the sale of first-hand residential properties. To advise how the Authority would supervise the compliance with Parts 2, 3 and 4 of the Bill. To also advise if the manpower requirement to assist the Authority would be absorbed within the existing resources of THB

Time marker	Speaker	Subject(s)	Action required
		<p>Ordinance (if enacted) and supervise compliance with Parts 2, 3 and 4 of the Ordinance;</p> <p>(b) to facilitate early implementation of the legislation and to maximize the use of public resources, the enforcement authority would be set up under THB. A public officer would be appointed as the Authority to supervise compliance with Parts 2, 3 and 4 of the Bill. Also, other public officers might be appointed to assist the Authority in the performance of the Authority's functions; and</p> <p>(c) additional resources for the setting up of the enforcement unit would be sought according to the established procedures as appropriate.</p>	and if not, the number of new posts to be created.
005106 - 010720	Chairman Mr Abraham SHEK Administration Ms Audrey EU Mr Ronny TONG	The Administration's explanation on the prosecution policy of the Department of Justice as set out in paragraphs 6 to 8 of LC Paper No. CB(1) 2109/11-12(02).	
010721 - 011855	Administration Mr Abraham SHEK Chairman	Mr Abraham SHEK's dissatisfaction over the repetitive Administration's response to his letter dated 28 May 2012 (Annex to LC Paper No. CB(1) 2109/11-12(02)).	
011856 - 012717	Chairman Administration	Administration's explanation on its response to issues raised by members at the meeting on 29 May 2012 (LC Paper No. CB(1) 2120/11-12(01)).	
012718 - 013512	Ms Audrey EU Administration Mr Abraham SHEK	Administration's explanation on its response to issues raised by members at the meeting on 31 May 2012 (LC Paper No. CB(1) 2120/11-12(02)).	
013513 - 014232	Administration Ms Audrey EU Chairman Mr Abraham SHEK Mr Ronny TONG	Discussion on the definition of "vendor" under clause 7(2) of the Bill.	
014233 - 015219	Chairman Administration Mr Abraham SHEK	Administration's explanation on its response to Mr Abraham SHEK's letter dated 31 May 2012 (LC Paper No. CB(1) 2120/11-12(03)).	

Time marker	Speaker	Subject(s)	Action required
015220 - 020830	Ms Audrey EU Chairman Mr Ronny TONG Mr Abraham SHEK	<p>Ms Audrey EU's enquiry on whether it would be a contravention to the existing laws (including the Basic Law and Hong Kong Bill of Rights) to require vendors to offer for sale all the residential properties covered in a price list.</p> <p>Administration's explanation -</p> <p>(a) requiring vendors to offer to sell all residential properties on the price lists might, in certain circumstances, impose an excessive burden on the vendors and might give rise to concerns in relation to Articles 6 and 105 of the Basic Law; and</p> <p>(b) the proposed requirement for a 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>	The Administration to advise whether it would be a contravention to the existing laws (including the Basic Law and Hong Kong Bill of Rights) to require vendors to offer for sale all the residential properties covered in a price list.
020831 - 021531	Mr James TO Administration Chairman	Mr James TO's view that the proposed arrangement on price lists was acceptable.	
021532 - 021744	Chairman Mr Ronny TONG	Discussion on meeting arrangements.	