

**The Administration's response to the submission from
the Hong Kong Institute of Estate Agents of 15 March 2013
(LC Paper No. CB(1)724/12-13(01) refers)**

This paper serves to respond to the submission dated 15 March 2013 from the Hong Kong Institute of Estate Agents and referred to us by the LegCo Secretariat on 18 March 2013.

2. In the midst of a continuously exuberant state in the residential property market arising from a tight supply of flats, extremely low interest rates and the influx of capital from overseas, it is apparent that the residential property market is out of step with the real economy. Property prices are rising beyond the affordability of the general public and the risk of a property bubble has increased substantially. In view of the above, the Financial Secretary announced on 26 October 2012 the new demand-side management measures, including the introduction of the Buyer's Stamp Duty (BSD). The objectives of the BSD are to accord priority to Hong Kong permanent resident (HKPR) buyers over non-HKPR buyers under the current tight supply situation; to prevent even further exuberance in the housing market which may pose significant risks to our macro economic and financial sector stability; and to ensure the healthy and stable development of the residential property market which is crucial to the sustainable development of Hong Kong as a whole.

3. We consider that the BSD is constitutional and is a legitimate taxation under Article 108 of the Basic Law. In pursuance of Article 108, the Government may, subject to the scrutiny of the Legislative Council, make laws concerning matters of taxation. Although Article 25 of the Basic Law provides that all Hong Kong residents shall be equal before the law, this guarantee does not invariably require exact equality. Differences in legal treatment may be justified for good reason. Thus, differential treatment may be justified if the difference in treatment pursues a legitimate aim, is rationally connected to the legitimate aim and is no more than is necessary to accomplish that aim. In the present case, the proposed exemption for HKPR buyers pursues the legitimate aim of meeting the housing needs of HKPRs who have a close connection with Hong Kong under the current exceptional circumstances as mentioned in paragraph 2 above. There is a genuine need to treat HKPRs differently from other Hong Kong residents. Exempting buyers who are Hong Kong residents but are not HKPRs from the BSD would undermine the effectiveness of the measure in accomplishing that aim. The exemption

is rationally connected to the legitimate aim and is no more than is necessary to accomplish that aim.

4. We would like to emphasise that the demand-side management measures, including the BSD, are extraordinary measures introduced in response to the present exceptional circumstances. We will continue to closely monitor the private residential property market and consider withdrawing these measures as and when appropriate.

Transport and Housing Bureau
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