

立法會
Legislative Council

LC Paper No. CB(1)1076/13-14
(These minutes have been seen
by the Administration)

Ref : CB1/SS/7/13/2

Subcommittee on Antiquities and Monuments
(Declaration of Historical Buildings) (No. 2) Notice 2013

Minutes of second meeting held on
Wednesday, 29 January 2014, at 9:00 am
in Conference Room 2B of the Legislative Council Complex

- Members present** : Dr Hon KWOK Ka-ki (Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon CHAN Hak-kan, JP
Hon YIU Si-wing
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon SIN Chung-kai, SBS, JP
- Member absent** : Hon Cyd HO Sau-lan
- Public Officers attending** : Agenda item I

Ms Vivian KO
Commissioner for Heritage
Development Bureau

Ms Queenie LEE
Assistant Secretary (Heritage Conservation) 3
Development Bureau

Mr Tom MING
Executive Secretary (Antiquities & Monuments)
Leisure and Cultural Services Department

Clerk in attendance : Mr Anthony CHU
Senior Council Secretary (1)6

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Mr Fred PANG
Council Secretary (1)6

Action

I Meeting with the Administration

(LC Paper No. CB(1)785/13-14(01) -- Follow-up actions to be taken by the Administration in response to members' requests made at the meeting on 14 January 2014

LC Paper No. CB(1)785/13-14(02) -- Administration's response to members' requests made at the meeting on 14 January 2014)

Other relevant papers

(L.N. 206 -- Antiquities and Monuments (Declaration of Historical Buildings) (No. 2) Notice 2013

File Ref.: DEVB/CHO/1B/CR141 -- Legislative Council Brief

LC Paper No. LS21/13-14 -- Legal Service Division Report)

The Subcommittee deliberated (index of proceedings in the **Appendix**).

Invitation of representatives of the Antiquities Advisory Board to attend the Subcommittee's second meeting

2. The Subcommittee noted that the Secretariat had issued a letter on 16 January 2014 to the Chairman of the Antiquities Advisory Board ("AAB") inviting representatives of the AAB to attend the meeting. In its reply, AAB advised that --

- (a) AAB had assisted the Administration in commencing the review of the policy on the conservation of Hong Kong's built heritage;
- (b) as the review had yet to be completed, it would not be appropriate for the AAB to brief Legislative Council ("LegCo") Members on the review at the juncture; and

- (c) AAB would submit a report to the Administration upon completion of the review and would brief LegCo Members when the report was available.

3. The Chairman concluded that the Subcommittee had completed the scrutiny of the Antiquities and Monuments (Declaration of Historical Buildings) (No. 2) Notice 2013 ("the Notice").

II Any other business

Legislative timetable

4. The Subcommittee noted that the Chairman had moved a motion at the Council meeting of 22 January 2014 to extend the scrutiny period of the Notice to the Council meeting of 26 February 2014. The Chairman informed members that the deadline for giving notice of Committee Stage amendment(s) to the Notice was 19 February 2014. The Subcommittee would make an oral report on its deliberations to the House Committee on 7 February 2014.

Site visit

5. The Subcommittee agreed that a visit would be made to Fat Tat Tong and Tak Tak Communal Hall to facilitate members' understanding of the two historical buildings. The Chairman instructed the Secretariat to issue a circular to invite all Members including non-Subcommittee Members to join the site visit.

(Post-meeting note: With the concurrence of the Chairman, the site visit was scheduled for Saturday, 22 February 2014. A circular was issued on 12 February 2014 inviting Members to indicate whether they would participate in the visit. However, to avoid clashing with the anticipated continuation of the Council meeting on 22 February 2014, at the instruction of the Chairman, the visit was cancelled.)

6. There being no other business, the meeting ended at 10:06 am.

**Proceedings of second meeting of the
Subcommittee on Antiquities and Monuments
(Declaration of Historical Buildings) (No. 2) Notice 2013
on Wednesday, 29 January 2014, at 9:00 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000117 – 000659	Chairman Administration	<p>Chairman's opening remarks</p> <p>The Administration's briefing on its response to issues raised by members at the meeting on 14 January 2014 (LC Paper No. CB(1)785/13-14(02))</p> <p>Invitation of the representatives of the Antiquities Advisory Board ("AAB") to the meeting</p>	
000700 – 001210	Mr YIU Si-wing Administration	<p>Mr YIU Si-wing enquired --</p> <p>(a) Whether the Administration had discussed with the owners of Fat Tat Tong the opening arrangement for the building as set out in LC Paper No. CB(1)785/13-14(02) ("proposed opening arrangement");</p> <p>(b) Whether the proposed opening arrangement for Fat Tat Tong, including the provision of cleaning and security services, and the maintenance cost of the building were similar to those of other monuments;</p> <p>(c) Whether and when large scale maintenance works of Fat Tong Tong would be carried out after completion of the restoration works to be conducted in 2015-2017; and</p> <p>(d) Whether the Administration would invite the owners of Fat Tat Tong, their descendants or the villagers of Ha Wo Hang to provide docent services for visitors to the building.</p> <p>The Administration replied that --</p> <p>(a) After obtaining a written consent from the owners of Fat Tat Tong indicating their agreement to the opening of the building for public viewing upon completion of the restoration works ("consent letter"), the Antiquities and Monuments Office</p>	

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		<p>("AMO") was seeking the owners' consent to the detailed proposed opening arrangement.</p> <p>(b) The detailed proposed opening arrangement was similar to that of other monuments. The maintenance cost of monuments had to be decided on a case-by-case basis.</p> <p>(c) The Administration recruited docents openly and provided training to them before they could provide guided tours for visitors to a monument. Owners/occupants of a monument were welcomed to participate in guided tours to help the public appreciate the monuments.</p> <p>(d) While maintenance works to rectify minor defects of the building would be conducted on a continuous basis, large-scale maintenance project might be carried out on a need basis in future, say after five to six years. Funding might be sought if necessary to finance the project.</p> <p>Mr YIU remarked that to facilitate public access to the monuments, the Administration should ensure that the opening arrangement including the opening hours should be consistent irrespective whether the monument was a residence.</p>	
001211 – 001803	<p>Mr CHAN Chi-chuen Administration Chairman</p> <p>Mr MA Fung-kwok</p>	<p>Mr CHAN Chi-chuen's views/enquiries that --</p> <p>(a) The objective of the Administration's heritage conservation policy to conserve monuments without taking over the ownership or changing their current use should be respected.</p> <p>(b) Whether the consent letter was legally binding.</p> <p>(c) The frequency of the cleaning services to be provided for Fat Tat Tong.</p> <p>The Administration replied that --</p> <p>(a) According to the legal advice of the Department of Justice, the consent letter had legal effect but should not be considered as a contract. To ensure public access to Fat Tat Tong, support and</p>	

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		<p>cooperation of the owners concerned was required.</p> <p>(b) The proposed cleaning service would be provided two to three times per week, which was considered sufficient based on experience.</p> <p>Discussion on the provision of docent services at Fat Tat Tong</p> <p>In response to the Chairman's enquiry on the areas of Fat Tat Tong that would be open for public visit, the Administration advised that –</p> <p>(a) The central unit of Fat Tat Tong, which was once used as a common storage area, and the forecourt were proposed to be open for public access but not the parts of the building resided by the descendants of Li To-wan.</p> <p>(b) Whether or not the building could be further opened for public access would be subject to the result of the condition survey to be conducted in 2014-2015.</p> <p>Discussion on the duties of security personnel at Fat Tat Tong and whether the estimated provision for the security service was adequate.</p>	
001804 – 002253	Mr MA Fung-kwok Chairman Administration	<p>Mr MA Fung-kwok enquired --</p> <p>(a) whether the Administration had secured the consent of the owners of Fat Tat Tong on the proposed opening arrangement for the building;</p> <p>(b) whether the opening arrangement of the building would be prescribed in form of a formal agreement or a memorandum; and</p> <p>(c) whether the estimated provision for docent service for visitors to the building was adequate.</p> <p>The Chairman and Mr MA enquired on the timetable to finalize details of the opening arrangement with the owners and when the building would be open for public access.</p>	

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		<p>The Administration responded that --</p> <ul style="list-style-type: none"> (a) AMO had forwarded the detailed proposed opening arrangement to the owners. Details would be confirmed with the owners in writing and would be finalized before the Administration commenced the restoration works for Fat Tat Tong in 2015. (b) The Administration would conduct condition survey to ascertain whether urgent repair to Fat Tat Tong would be required. The building would be temporarily closed when the restoration works were carried out. (c) The estimated annual expenditure of \$20,000 on the provision of docent service mainly covered the honorarium paid to the volunteers engaging in the service. <p>The Administration advised on the operating hours of the proposed security service for Fat Tat Tong and the service was procured through a bulk tender covering all monuments in Hong Kong.</p>	
002254 – 003203	Mr SIN Chung-kai Administration	<p>Mr SIN Chung-kai enquired on --</p> <ul style="list-style-type: none"> (a) whether the consent letter was signed by all owners of Fat Tat Tong and whether it was legally binding; (b) the mechanism to handle the requests of the owners or their descendants for changing the agreed opening arrangement in future; and (c) whether the Administration would sign a management agreement with the owners on the opening arrangement, specifying that the arrangements to be reviewed regularly in the future. <p>The Administration replied that --</p> <ul style="list-style-type: none"> (a) Fat Tat Tong was situated on Lots Nos. 1113, 1114, 1115, 1118 and 1119 in D.D. 39. The owner of lot no. 1113 and the Manager of the owners of the remaining lots (i.e. Li To Wan Tso) had signed the consent letter. Further to the consent letter, the 	

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		<p>AMO was seeking the consent of the two owners on the proposed opening arrangement.</p> <p>(b) Once a building was declared as a monument, it would be subject to permanent statutory protection and be preserved. It was normal practice that the agreed opening arrangement of monuments would continue. Should the owners of Fat Tat Tong or the Administration wish to make any change, the Administration and the owners would discuss the proposal.</p> <p>(c) The Administration provided cleaning and security services at Fat Tat Tong for the benefits of the visiting public, not for the owners' benefits.</p>	
003204 – 003816	Chairman Administration	<p>The Chairman enquired --</p> <p>(a) whether the restoration works to be conducted in 2015-2017 would cover the domestic areas of Fat Tat Tong which would not be open for public access; and</p> <p>(b) the measures that could be taken by the Administration against a monument's owner who refused to comply with the agreed opening arrangement.</p> <p>The Administration responded that --</p> <p>(a) The restoration works for Fat Tat Tong would cover the whole building.</p> <p>(b) It was not a legal requirement that the owners concerned should open the monuments for public access. Public access to monuments, including Fat Tat Tong, could only be arranged with the support and cooperation of the owners concerned. Changes to the agreed opening arrangement would be subject to discussion between the Administration and the owners.</p> <p>Discussion on whether the Administration should request monument owners to reimburse the Administration for the maintenance works if they had breached the agreed opening arrangement.</p>	

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		<p>The Chairman remarked that there were no effective measures the Administration could take if a monument owner had breached the agreement on the opening arrangement, albeit the plan to spend public money on the restoration and maintenance of the monument.</p>	
003817 – 004731	Mr YIU Si-wing Administration	<p>Mr YIU Si-wing's views/enquiries that --</p> <ul style="list-style-type: none"> (a) It was important to allow public access to Fat Tat Tong to help promoting the heritage of Hong Kong. (b) Members of the public might consider that Fat Tat Tong should be open for public access and appreciation to justify the public expenditure on the restoration/maintenance of the building. (c) The Administration should sign a legally binding memorandum with the owners of Fat Tat Tong setting out clearly the allocation of responsibilities between the Administration and the owners for the opening of the building for public access and if appropriate, the duration for the arrangements. (d) Whether the owners of Fat Tat Tong and their descendants could carry out renovation works for the building in the future. <p>The Administration responded that --</p> <ul style="list-style-type: none"> (a) The owners of Fat Tat Tong had rendered great support to heritage conservation by agreeing to subject the building to permanent statutory protection and control through monument declaration, which would obviate any possibility of redeveloping the building. (b) AMO would finalize and confirm in writing the detailed opening arrangement with the owners of Fat Tat Tong. The owners so far had not requested that the arrangement should be subject to regular review. (c) No building works within a monument should be allowed except with the permit granted by the Antiquities Authority under the Antiquities and 	

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		Monuments Ordinance (Cap. 53).	
004732 – 005126	Mr SIN Chung-kai Administration	<p>Mr SIN Chung-kai's views that --</p> <p>As it was possible that the descendants of the owners of Fat Tat Tong might not agree to open the building for public access in future, the Administration should consider signing a management agreement with the owners including a mechanism to revise the opening arrangements if necessary.</p> <p>The Administration responded that --</p> <p>(a) The purpose for undertaking restoration and maintenance works for Fat Tat Tong with public money was to preserve the building as a declared monument. The public could benefit and enjoy the monument through appreciating its appearance from publicly accessible points.</p> <p>(b) It was the current practice of the Administration to confirm the opening arrangement with the owners of a monument in a written form. Owners of monuments were not legally required to open the monuments for public access.</p> <p>(c) Measures to facilitate the public appreciation of monuments were one of the issues to be studied in a policy review on the conservation of Hong Kong's built heritage being undertaken by the Administration with the assistance of the AAB.</p>	
005127 – 010040	Chairman Administration Mr YIU Si-wing	<p>The Chairman opined that --</p> <p>(a) The Administration should assess the possibility that the owners of Fat Tat Tong would not fulfill the agreement on opening the building for public access.</p> <p>(b) To provide an incentive to the owners concerned to allow public access to the monuments, the costs of restoration and maintenance works for the building might be arranged as a loan to the owners. The owners would be required to repay the loan to the Administration should they not honour the opening arrangement.</p>	

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		<p>The Administration responded that --</p> <p>(a) Under the existing policy, public access was not a prerequisite for declaring a building as a monument and undertaking restoration/maintenance works for the monument with public money. The works were conducted to preserve the monuments in a satisfactory condition for public benefit. AMO would appoint contractors to carry out the works instead of providing funds to the owners.</p> <p>(b) Financial assistance was available under the Financial Assistance for Maintenance Scheme for owners of privately-owned graded historic buildings to carry out maintenance works by themselves.</p> <p>The Administration advised in response to the Chairman that --</p> <p>(a) The detailed opening arrangement for Fat Tat Tong would be finalized with the owners before the commencement of the restoration works for the building.</p> <p>(b) Carrying out restoration works upon monument declaration and allowing public access to the building were two separate matters.</p> <p>Mr YIU Si-wing stressed that as Fat Tat Tong would be maintained using public money, the Administration should sign a legally binding agreement setting out the responsibilities of the Administration and the owners of Fat Tat Tong to allow public access to the building.</p> <p>The Chairman opined that --</p> <p>(a) The Administration has not taken effective measures to ensure that public access to Fat Tat Tong would be allowed on a permanent basis.</p> <p>(b) The Administration had not adopted an open-minded attitude to members' suggestions on resolving the issue.</p>	

Time marker	Speaker	Subject(s)	Action required
010041 – 010341	Chairman Administration Mr YIU Si-wing	Discussion on the deficiencies in the existing policy to address the issues in connection with the opening of monuments for public access Legislative timetable Discussion on the proposed visit to Fat Tat Tong and Tat Tak Communal Hall	
Examination of the provisions of the Antiquities and Monuments (Declaration of Historical Buildings) (No. 2) Notice 2013			
010342 – 010730	Administration Chairman Assistant Legal Adviser 9 (ALA9) Mr SIN Chung-kai	<p><u>Section 1 -- Declaration of historical buildings</u></p> <p>The Chairman enquired whether the land lots where Fat Tat Tong was situated should be specified in the Antiquities and Monuments (Declaration of Historical Buildings) (No. 2) Notice 2013 ("the Notice"). The Administration responded that the boundary of the monuments concerned had been delineated in the maps deposited in the Land Registry.</p> <p>ALA9 advised that the Notice did not provide for a commencement date. By virtue of section 20(2) of the Interpretation and General Clauses Ordinance (Cap. 1), the Notice commenced on the day it was published in the Gazette, i.e. 27 December 2013.</p> <p>The Chairman remarked that the Subcommittee had completed the scrutiny of the Notice.</p> <p>Mr SIN Chung-kai suggested and the Subcommittee agreed that the Chairman would report members' concerns expressed at the meetings to the House Committee and at the Council meeting of 26 February 2014.</p>	