

立法會
Legislative Council

Ref: CB1/BC/9/99/2

LC Paper No. CB(1)2010/99-00

(These minutes have been
seen by the Administration
and cleared by the Chairman)

**Bills Committee on
Urban Renewal Authority Bill**

**Minutes of meeting held on
Tuesday, 2 May 2000, at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Edward HO Sing-tin, SBS, JP (Chairman)
Hon Gary CHENG Kai-nam, JP (Deputy Chairman)
Hon HO Sai-chu, SBS, JP
Ir Dr Hon Raymond HO Chung-tai, JP
Hon NG Leung-sing
Hon Ronald ARCULLI, JP
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Dr Hon TANG Siu-tong, JP
- Members absent** : Hon LEE Wing-tat
Hon LEE Cheuk-yan
Hon Christine LOH
Hon CHAN Yuen-han
Dr Hon LEONG Che-hung, JP
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon TAM Yiu-chung, GBS, JP
Hon FUNG Chi-kin
- Public officers attending** : Mr Stephen FISHER
Deputy Secretary for Planning and Lands
(Urban Renewal and Buildings)
- Ms Olivia NIP
Principal Assistant Secretary for Planning and Lands
(Urban Renewal)

Mr T K LEE
Assistant Director/Urban Renewal (Ag)
Planning Department

Mr J D SCOTT
Senior Assistant Law Draftsman

Ms R CHAI
Government Counsel

Clerk in attendance : Miss Odelia LEUNG
Chief Assistant Secretary (1)1

Staff in attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Miss Becky YU
Senior Assistant Secretary (1)3

I Meeting with the Administration

Discussion on transitional arrangement on employment related matters
(LC Paper Nos. LS 116/99-00 and CB(1) 1424/99-00(04))

At the invitation of the Chairman, the Assistant Legal Adviser 1 (ALA 1) briefed members on LC Paper No. LS 116/99-00 which set out the provisions on transitional arrangements for employees of the Mass Transit Railway Corporation under the Mass Transit Railway Ordinance (Ord. No. 13 of 2000) (MTRO) and the Committee Stage amendments proposed by Members during the Legislative Council proceedings on the Mass Transit Railway Bill.

2. Mr Ronald ARCULLI enquired about the difference between section 41(1) of MTRO and clause 32(5) of the Bill in dealing with employment-related matters. ALA 1 advised that the former dealt expressly with contracts of employment while the latter was a general provision on all kinds of contracts. Despite the difference, they had the same legal effect of ensuring the continuation of existing employment contracts upon transition. To ensure consistency, members requested and the Administration undertook to consider redrafting clause 32(5) in line with section 41(1) of MTRO.

(Post-meeting note: The Administration agreed to add a new subclause to clause 32 of the Bill. The Administration's response was circulated to members vide LC Paper No. CB(1)1507/99-00(07).)

3. Mr ARCULLI noted that the scope of application of section 41(2) of MTRO was wider than clause 32(8) of the Bill in that it extended beyond provident funds to cover pensions, allowances, gratuities and benefits of every description. He asked what benefits the employees of the Land Development Corporation (LDC) were presently receiving other than provident funds and those specified in their contracts of employment. The Deputy Secretary for Planning and Lands (DS/PL) advised that all benefits should have been spelt out in the employment contracts of LDC. Administrative arrangements such as the use of company cars however fell outside the scope of clause 32(8). As to whether the Urban Renewal Authority (URA) could alter the terms of employment of existing staff of LDC after the transition from LDC to URA, DS/PL explained that the legislative intent of the Administration was that employment with LDC and URA should for all purposes be deemed to be a single continuing employment. The terms of employment might only be changed by mutual agreement between the employees and URA.

4. As regards the arrangement for the existing provident fund scheme of LDC, DS/PL advised that LDC had confirmed that they had applied to the Mandatory Provident Fund Schemes Authority for exemption to retain their scheme.

Discussion on issues outstanding from previous meetings

*Meeting on 14 March 2000
(LC Paper No. CB(1) 1222/99-00(01))*

5. On the chairmanship of the URA Board, DS/PL advised that the Administration was still considering the respective merits of the executive Chairman model and the non-executive Chairman model. Members would be informed of the decision in due course.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(1)1705/99-00(01).)

6. On the power of the Financial Secretary (FS) to approve draft corporate plans and draft business plans with amendment under clauses 18 and 19, DS/PL advised that such power was essential to enable the Government to have proper control over URA which was an independent body by statute. Besides, there might be circumstances under which FS might not agree on certain items of a draft corporate plan or business plan on the grounds that they were not financially viable, or that there were inadequate re-housing resources. If FS was not allowed to amend these plans, he might have to refuse to approve the plans. In order to provide flexibility and to avoid the need for re-submission of plans by URA, it was necessary and appropriate to provide FS with the power to approve a draft corporate plan or business plan with amendments. The Chairman however held the view that as the draft plans should have been thoroughly discussed by the URA Board before submission to FS and the views of the Administration should have been taken into account by virtue of the representation of the four official non-executive directors on the Board, should FS have any query about the draft plans, he should return them to URA for revision instead of amending them by himself. He cautioned that the empowering provision for FS to approve these

plans with amendments would undermine the autonomy of URA. Expressing similar concern, Ms Emily LAU noted that apart from clauses 18 and 19, clause 10(3) also provided that the Secretary for the Treasury might give directions to URA in relation to the amount of money which might be expended by the Authority in any financial year and the Authority should comply with those directions. DS/PL remarked that the power to give direction was not uncommon in other legislation concerning statutory bodies, including the Land Development Corporation Ordinance (Cap. 15). This aimed to ensure that the Government had proper control over these organizations. Members remained unconvinced of the Administration's response. They urged the Administration to review the need and the merits of empowering FS to approve corporate plans and business plans with amendments.

(Post-meeting note: The Administration agreed to amend clauses 18 and 19 to remove the FS's amending power. The Administration's response was circulated to members vide LC Paper No. CB(1)1507/99-00(07).)

*Meeting on 27 March 2000
(LC Paper No. CB(1) 1364/99-00(07))*

7. On appeal channel, DS/PL noted members' suggestion of providing an appeal channel against the decision of the Secretary for Planning and Lands (SPL) to authorize URA to proceed with a development project under clause 21(4) or clause 21(7) of the Bill. The Administration would reconsider the proposed approval procedure for development projects and revert back to the Bills Committee in due course.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(1)1705/99-00(02).)

*Meetings on 14 and 15 April 2000
(LC Paper Nos. CB(1) 1424/99-00(05) and 1465/99-00)*

8. On clause 26(4), Mr James TO questioned the need for the use of force to enter and inspect any land or premises within a project area. The Senior Assistant Law Draftsman clarified that the power to enter and inspect under clause 26(4) could only be used for the purpose of preparing an assessment on residential accommodation required under clauses 22(3)(c), 24(3)(b) and (c). In the event that SPL, URA or any person authorized in writing by SPL or URA under delegated authority was unable to effect an entry to the land or into the premises on it in accordance with clause 26(1), he might serve on the owner and occupier a notice in writing requiring permission to enter and inspect. After the expiry of 48 hours from the service of the notice, he might, at any reasonable time during daylight, use such force as was necessary to enter and inspect the land or premises and take the particulars required. DS/PL supplemented that the main purpose of clause 26(4) was to ensure that URA could effectively complete a freezing survey of the residents within a project area so as to determine their eligibility for rehousing and ex gratia payment. The power to enter and inspect was necessary as a deterrent and as a last resort to deal with very exceptional cases. For example, some owners of tenanted flats who wished to get the full payment of

Home Purchase Allowance for their premises might try to impede the authorized persons from entering or inspecting their premises.

9. While acknowledging the Administration's explanation, Mr TO remained of the view that the provision on entry by force under clause 26(4) was not acceptable to the general public, and that other equally effective but non-violent alternatives should be used to collect the required information. Ms Emily LAU echoed that instead of empowering the authorized persons to use force to enter and inspect the land or the premises, consideration should be given to requiring owners or occupiers to allow entry for inspection and making non-compliance an offence. DS/PL confirmed that it was an offence under clause 26(7) for any person to obstruct SPL, URA or any person authorized in writing by SPL or URA under delegated authority from entering or inspecting any land or any premises on it. Members generally considered that the fine of \$2,000 on first conviction was insufficient as a deterrent. To overcome the problem, Ms LAU suggested that the Administration should substantially raise the amount of fine. DS/PL pointed out that instituting prosecution under clause 26(7) would take time which might provide an opportunity for owners to evict their tenants and change the conditions of the premises. He nevertheless agreed to reconsider clause 26(4).

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(1)1507/99-00(07).)

10. As to why the authorized person could only enter and inspect the land or the premises during daylight, DS/PL advised that this aimed at minimizing the possible disruption to the residents concerned.

*Summary of views raised by deputations and in submissions on the Bill and the Administration's response
(LC Paper Nos. CB(1) 1424/99-00(06) and 1463/99-00(01))*

11. On urban renewal strategy (URS), Mr James TO opined that the Administration should inform the public how URS was formulated. DS/PL advised that the formulation of URS involved the conduct of an urban renewal strategy study by the Planning Department (PlanD) and the preparation of an urban renewal strategy policy document by SPL. URS would be reviewed and updated regularly. PlanD would update its urban renewal strategy study to tie in with the review of the policy document. The Administration would have to consult URA before promulgation of URS.

12. Noting that the public and the professional institutes would be involved in the updating exercise of the urban renewal strategy study and the urban renewal strategy policy paper, the Chairman asked if they could also comment on URS after it was promulgated. DS/PL confirmed that consultation was feasible but details had yet to be worked out with the Provisional URA to be established after the passage of the Bill. While welcoming the positive response of the Administration, Ms Emily LAU considered that the Administration should include the consultation mechanism for formulating URS in the Bill. She added that the Administration should also define URS in the Bill. DS/PL advised that it was not common to include the consultation

process in the Bill as this might limit the flexibility of URA in conducting consultation. He nevertheless undertook to consider Ms LAU's suggestion and would revert back to members in due course.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(1)1507/99-00(07).)

II Any other business

13. There being no other business, the meeting ended at 10:35 am.

Legislative Council Secretariat
3 October 2000