

立法會
Legislative Council

Ref: CB1/BC/9/99/2

LC Paper No. CB(1) 2011/99-00

(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, 9 May 2000, at 2:30 pm
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 LEE Wing-tat
Hon NG Leung-sing
Hon Ronald ARCULLI, JP
Hon James TO Kun-sun
Hon Christine LOH
Hon Emily LAU Wai-hing, JP
Dr Hon TANG Siu-tong, JP
- Member attending** : Hon Eric LI Ka-cheung, JP
- Members absent** : Hon HO Sai-chu, SBS, JP
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon CHAN Yuen-han
Dr Hon LEONG Che-hung, JP
Hon LEUNG Yiu-chung
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

Members agreed to discuss the issues outstanding from the previous meetings held on 26 April and 2 May 2000 before continuing discussion on the Administration's response to comments made in submissions on the Bill.

Proposed ex gratia payment for owner-occupiers and tenants of non-domestic properties

(LC Paper No. CB(1) 1507/99-00(02))

2. Mr LEE Wing-tat considered that when determining the rate for the proposed new ex gratia payment for owner-occupiers and tenants of non-domestic properties, the Administration should take into account the need to enable them to continue their businesses elsewhere. The Deputy Secretary for Planning and Lands (DS/PL) explained that there were two types of non-domestic properties, namely, commercial and industrial premises. In general, owner-occupiers of both types of premises affected by land resumption would be eligible for statutory compensation under the Lands Resumption Ordinance (Cap. 124) (LRO) which was the fair market value of their properties plus either an ex gratia allowance (covering rental cost for the removal period, removal costs, decoration costs, stamp duty as well as legal and agent's fees) or the option to claim business loss and disturbance payment under sections 10(2)(d)

and (e) of LRO respectively. However, as owner-occupiers and tenants of commercial premises (mostly shopkeepers) were often unable to produce documentary evidence to prove business loss, the Administration was reviewing the ex gratia allowance to see if it should be enhanced. A new ex gratia allowance based on a specified percentage of the fair market value of the resumed premises was under consideration.

3. As regards industrial premises, DS/PL said that the Administration would also review the ex gratia allowance for the owner-occupiers and tenants of these premises (mainly factory operators), but the basis for determining the new ex gratia allowance might have to be different from that for owner-occupiers of commercial premises as the market value of industrial premises might not be the most appropriate basis for such a purpose. Given that the majority of premises to be resumed by the Urban Renewal Authority (URA) would be residential and commercial premises, there would be ample time for URA to work out the rate for the new ex gratia payment for owner-occupiers and tenants of industrial premises. Members would be informed of the details in due course.

Acquisition of land for redevelopment - Differences between private developers and URA

(LC Paper No. CB(1) 1507/99-00(03))

4. Mr Ronald ARCULLI and Mr James TO noted that unlike land resumption by URA which had to be announced in the Gazette, acquisition of land for redevelopment by private developers was conducted in private. They expressed concern about the situation where URA might inadvertently apply for resumption of a site being assembled for redevelopment by a private developer. DS/PL advised that before implementing a project by way of a “development scheme” or a “development project”, URA would be required to publish in the Gazette the commencement date of the project and to exhibit general information about the project for public inspection. Any person, including the private developer, who considered that he would be affected by the project could object to the implementation of such a project within the publication period. URA would exclude the site concerned from the project if the objection was substantiated. He reiterated that there would be no role for URA if private developers were willing to undertake or capable of undertaking redevelopment by themselves.

Ex gratia payment for legal occupiers of domestic properties affected by land resumption

(LC Paper No. CB(1) 1507/99-00(04))

5. Dr TANG Siu-tong asked how the sliding scale of rates for the ex gratia payment for legal occupiers of domestic properties was decided. DS/PL explained that it was determined taking into account the location and market value of the resumed premises.

Resumption of mortgaged properties
(LC Paper No. CB(1) 1507/99-00(05))

6. Ms Christine LOH remarked that as many domestic properties, particularly those newer ones, had become negative assets following the economic downturn over the past few years, resumption of these properties by URA might force the owners concerned to realize their loss. The Chairman echoed that as the statutory compensation and ex gratia payment payable to owners in the event of land resumption were calculated according to the existing value of the resumed properties on the day of reversion, these might not be sufficient for them to repay the mortgage loans. They might go bankrupt and face all the dire consequences due to compulsory land resumption by the Government. Members asked if special consideration would be given to enhancing the ex gratia allowance for owners with negative assets.

7. As nearly all the premises to be resumed by URA were over thirty years of age, DS/PL considered it very unlikely that the amount of compensation plus an ex gratia allowance payable to owners would be insufficient for them to repay the mortgage loans. He stressed that the Government could only compensate owners in accordance with the law and the existing policy on ex gratia payments if any land was resumed. However, owners who faced hardship might discuss their cases with URA before or after the publication of the resumption notice. URA would deal with these cases in a fair and compassionate manner. At members' request, DS/PL undertook to mention at the resumption of the Second Reading debate on the Bill that URA would deal with hardship cases in a fair and compassionate manner.

8. Dr TANG Siu-tong noted that the problem of negative assets was also prevalent for non-domestic properties. He asked if owners concerned could claim business loss due to total extinguishment of the business in the event of land resumption by the Government. DS/PL confirmed that owner-occupiers of non-domestic properties affected by land resumption would be eligible for statutory compensation under LRO which was the fair market value of their properties plus either an ex gratia allowance or the option to claim business loss under section 10(2)(d) of LRO. To facilitate a better understanding, the Administration undertook to explain in writing the provision under section 10(2)(d) of LRO. The Administration would also advise if there had been claims for business loss due to total extinguishment in redevelopment projects undertaken by the Land Development Corporation (LDC). Mr Ronald ARCULLI further enquired about the validity of an Agreement for Sale and Purchase of a property in the event that the property was resumed by the Government before the transaction was completed. DS/PL said that he would consult the Department of Justice in this regard.

(Post-meeting note: The Administration's response was circulated vide LC Paper No. CB(1) 1679/99-00(02).)

9. As to whether the owner or the bank should have the priority for the statutory compensation and the ex gratia payment when a mortgaged property was resumed by the Government, DS/PL advised that under section 6(1) of LRO, the Director of Land (D of L) should, within 28 days from the date on which the land reverted to the

Government, write to the former owner and to any person having an estate or interest in the land immediately before reversion under an instrument registered in the Land Registry, making an offer of compensation in respect of the resumption of the land. D of L would write to the former owner and notify the bank if the property was mortgaged. If the offer of statutory compensation and ex gratia payment was accepted, separate cheques would be sent to the former owner and the bank.

10. Mr Ronald ARCULLI remarked that apart from the problem of negative assets, property owners might also find it financially difficult to maintain their buildings. He asked what assistance the Government would render to these owners. DS/PL advised that the Administration was formulating a new proposal for the preventive maintenance of buildings and would consult the public shortly. Under the proposal, a statutory scheme would be introduced to require owners of older buildings which were not properly maintained to carry out preventive maintenance and proper repairs of their buildings. Financial assistance would be provided to those who had difficulties in paying for the repairs.

Supplementary information on the preliminary agreement between the Government and the Housing Authority

(LC Paper No. CB(1) 1507/99-00(06))

11. Mr LEE Wing-tat noted with concern about the guarantee of local rehousing for tenants displaced by urban renewal projects in the current information paper. He urged the Administration not to sign the Memorandum of Understanding with HA until better rehousing arrangements had been worked out. DS/PL clarified that the information paper referred to was supplementary in nature and should be read together with the preliminary agreement circulated vide LC Paper No. CB(1) 1424/99-00(02). He added that apart from HA, the Housing Society (HS) had also agreed to act as a rehousing agent of URA. This would enable URA to pool the rehousing resources provided by HA and HS and enhance its flexibility in making rehousing arrangements for affected tenants. In addition, purpose-built flats within or near the project areas would be constructed for rehousing elderly tenants. Tenants who failed to meet the eligibility criteria for rehousing to public rental housing (PRH) flats might be offered Green Form status for the purpose of applying for various subsidized home ownership schemes administered by HA. Mr LEE however pointed out that unlike HA, HS only had a limited supply of PRH flats for rehousing displaced tenants. He then enquired about the locations of the land earmarked for the construction of rehousing flats for elderly tenants and the number of flats to be built on such land. The Assistant Director/Urban Renewal (Acting), Planning Department advised that the Administration was building up a land reserve for this purpose. However, the number of flats to be built was to be determined after the conduct of freezing surveys.

12. To expedite the pace of urban renewal and to ensure adequate supply of rehousing flats for affected tenants, Mr LEE opined that the Administration should require HA to reserve any flat which might arise from casual vacancies in PRH estates for URA. DS/PL explained that under the preliminary agreement, HA would provide an annual quota of up to 1,000 PRH and interim housing (IH) units to URA in the initial five years. URA would inform HA of the types, sizes and locations of PRH

units to be required for the coming year. The Government would, over a period of five years, grant land to HA for the construction of an equivalent number of PRH and IH units which had been provided to URA. In view of the large stock of PRH flats under HA, DS/PL was confident that sufficient flats would be made available for rehousing affected tenants. Notwithstanding the Administration's assurance, the Chairman asked if the Administration would request HA to accord first priority to URA whenever flats arose from casual vacancies in PRH estates to ensure that HA could provide the annual quota of up to 1,000 PRH and interim housing units as agreed. DS/PL replied that this might not be possible as HA might have to use the casual vacancies to meet other emergency needs. He nevertheless undertook to relay members' concern to HA for consideration.

(Post-meeting note: The Administration's response was circulated vide LC Paper No. CB(1) 1679/99-00(02).)

13. While acknowledging that affected tenants would be required to meet the eligibility criteria in order to be eligible for rehousing to PRH units of HA, Mr James TO pointed out that there might be circumstances under which some tenants who failed to meet the criteria should be rehoused on compassionate grounds. He urged the Administration to discuss with HA on the feasibility of allocating a certain number of the annual quota for rehousing affected tenants on compassionate grounds. DS/PL undertook to relay Mr TO's concern to HA for consideration.

(Post-meeting note: The Administration's response was circulated vide LC Paper No. CB(1) 1679/99-00(02).)

Administration's response to members' concerns raised at the meeting on 2 May 2000
(LC Paper No. CB(1) 1507/99-00(07))

14. On clause 26(4) concerning the power to enter and inspect premises, DS/PL advised that this was drafted with reference to the Land Development Corporation Ordinance (Cap. 15). Ms Emily LAU questioned the need for the clause given that LDC had never exercised such power over the past years. DS/PL explained 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 premises 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.

Administration's response to comments made in submissions on the Bill
(LC Paper No. CB(1) 1463/99-00(01))

15. On purposes of URA, Ms Emily LAU was disappointed at the recent remark of DS/PL in public that URA would not undertake a social impact assessment (SIA) before implementing a redevelopment project. In view of the importance of SIA, the Chairman and Mr James TO considered it necessary to include in the Bill the need for

URA to undertake a SIA before implementing a redevelopment project. DS/PL advised that URA was required under clause 22(3)(c) to carry out an assessment on the persons who would be displaced by the implementation of a development scheme. He assured members that URA would fully assess the social impact of a proposed project and the social and rehousing needs of the residents. However, the impact assessment would only be carried out after the conduct of the freezing survey to prevent people from moving into the project area and speculating on properties.

16. Ms LAU asked if SIAs to be conducted by URA would be similar to those mentioned in the submissions from various deputations, including the Centre of Urban Planning and Environmental Management (CUPEM) of the University of Hong Kong. DS/PL explained that as most SIAs proposed by deputations were modelled after the ones adopted in the United Kingdom or the United States, they might not be suitable to the unique situation in Hong Kong. Noting that CUPEM had provided some updated information on SIAs, Ms LAU requested that the information be sent to the Administration for comment. Meanwhile, the Administration was requested to provide an outline of the impact assessment to be undertaken by URA.

(Post-meeting note: The Administration's response was circulated vide LC Paper No. CB(1) 1679/99-00(02).)

II Any other business

17. There being no other business, the meeting ended at 4:30 pm.

Legislative Council Secretariat
16 October 2000