

立法會

Legislative Council

LC Paper No. CB(1) 2127/99-00

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

Ref: CB1/BC/9/99/2

Bills Committee on Urban Renewal Authority Bill

**Minutes of meeting held on
Saturday, 10 June 2000, at 9:00 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Edward HO Sing-tin, SBS, JP (Chairman)
Hon HO Sai-chu, SBS, JP
Hon LEE Wing-tat
Hon LEE Cheuk-yan
Hon NG Leung-sing
Hon Ronald ARCULLI, JP
Hon LEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP

Members absent : Hon Gary CHENG Kai-nam, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon James TO Kun-sun
Hon Christine LOH
Hon CHAN Yuen-han
Dr Hon LEONG Che-hung, JP
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon FUNG Chi-kin
Dr Hon TANG Siu-tong, JP

**Public officers
attending** : Mr Stephen FISHER
Deputy Secretary for Planning and Lands
(Urban Renewal and Buildings)

Mr Jerry AUSTIN
Assistant Secretary for Planning and Lands
(Urban Renewal 2)

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

Administration's response to members' concern on whether the Urban Renewal Authority (URA) would be put under the purview of the Director of Audit (D of A)
(LC Paper No. CB(1) 1802/99-00(01))

As the money paid by the Government to URA might be given in the form of capital injection, Mr NG Leung-sing considered that an auditing system, such as the proposed scrutiny by the Director of Audit (D of A), was necessary to ensure the proper use of public money by URA. The Deputy Secretary for Planning and Lands (DS/PL) advised that a number of systems were provided under the Bill to monitor the work of URA. By way of illustration, URA would be required to submit to the Financial Secretary for approval each year a draft five-year corporate plan and a business plan. The Managing Director and the two Executive Directors of URA would be required to attend meetings of the Legislative Council (LegCo) upon request to answer questions on the work of URA. Moreover, they would also be held directly accountable for the performance of URA as their remuneration packages and renewal of employment contracts or otherwise would be determined by the Chief Executive (CE) based on performance. The Administration had also revised the accounting and auditing requirements under clause 16 of the Bill in the light of the comments of the Hong Kong Society of Accountants. In addition, URA would be required to submit to LegCo for scrutiny each year a report of the affairs of the Authority, a copy of the audited financial statements and the auditor's report on audit of those statements.

2. Ms Emily LAU however considered that annual reports alone were not sufficient. She remained of the view that a higher level of authority, such as D of A, should be appointed to audit the work of URA. DS/PL explained that as URA would have to operate along commercial lines in its joint-venture partnerships with private developers, the inclusion of URA under the purview of D of A might affect its mode of operation. For example, URA might have to prepare full documentation explaining its work in order to prevent criticism by D of A. Mr TAM Yiu-chung concurred with the Administration that the proposed inclusion of URA under the purview of D of A would limit the flexibility of URA in implementing its redevelopment projects.

3. While agreeing that URA should be accorded greater flexibility, Mr LEE Wing-tat reiterated the need to audit the work of URA. He asked if the Administration would consider setting up an independent audit team within URA and making available the annual report prepared by this audit team to LegCo for information. Noting that the Land Development Corporation (LDC) had in place a system similar to that proposed by Mr LEE, DS/PL advised that he would check with LDC 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) 1864/99-00(01).)

Administration's response to concerns raised at the meeting on 5 June 2000
(LC Paper Nos. CB(1) 1802/99-00(02) and (03))

4. On Home Purchase Allowance (HPA), Ms Emily LAU cautioned that the proposed use of a flat of a certain age range for calculating the cost of a replacement flat would give rise to inequity where owners in project areas with no supply of ten-year old replacement flats would receive higher HPA than their counterparts in other project areas. DS/PL reiterated that the current proposal was initiated in response to views collected from the public consultation exercise on the Bill. This aimed at providing greater flexibility to affected owners, particularly those living in project areas where no ten-year old replacement flats were available, so that they could have a wider choice of flats in the same locality. Ms LAU was not convinced of the Administration's response. Noting that compensation arrangements were not provided under the Bill, Ms LAU considered that there was a need for the Chairman to mention in the Second Reading debate of the Bill that members had unanimously supported that the basis for calculating HPA be revised from a replacement flat of about eight to ten years' old to a replacement flat of about eight years' old.

5. Mr LEE Cheuk-yan noted that according to the Administration's assessment, the amount of HPA to be required for the 20-year urban renewal programme would increase by \$1.8 billion from \$21.2 billion to \$23 billion if the compensation formula for HPA was revised from a replacement flat of about ten years' old to a replacement flat of about eight years' old. He enquired about the basis upon which the figure of \$1.8 billion was arrived at. DS/PL explained that the Administration had commissioned a consultancy study on the value of properties within the nine urban renewal target areas. The findings revealed that the amount of HPA of the 20-year urban renewal programme would increase by around 4% if the age of the replacement flat was reduced by one year. Accordingly,

about 8-9% increase in the amount of HPA (or about \$1.8 billion) would be expected if the calculation basis for HPA was revised from a replacement flat of about ten years' old to a replacement flat of about eight years' old.

6. Mr LEE Wing-tat held the view that the increase of \$1.8 billion, to be spread over a period of 20 years, was relatively small when compared with the interest to be incurred in the event of delay of redevelopment projects as a result of resistance from residents concerned. As the revised HPA would apply to future resumption of land under the Lands Resumption Ordinance (Cap. 124) (LRO), DS/PL considered it not appropriate to further enhance HPA lest this would have a far-reaching implication on other public works projects involving land resumption. Mr LEE was not convinced of the Administration's response. He opined that further enhancement of HPA was worth pursuing as this would help reduce the resistance of people affected by land resumption, thereby expediting the land assembly process. Besides, as most of the future land resumption under LRO would be carried out for URA, the impact of the proposal on other public works projects would be minimal.

7. Noting that disputes on compensation for land resumption might arise as a result of different valuations by the Government surveyors and the surveyors employed by affected owners as in the case of the redevelopment of Wah Kai Industrial Centre, Mr LEUNG Yiu-chung asked how the Administration would reconcile the differences in future. DS/PL advised that LDC had encountered similar problem in the redevelopment of Kennedy Town where the Government surveyor did not accept the valuations made by surveyors employed by owners on the ground that they had included illegal structures as part of the premises in the assessments. To prevent future recurrences, the Lands Department would issue standard guidelines on valuation for reference of surveyors.

8. Ms Emily LAU asked if tenanted flats could be regarded as commercial premises so that owners concerned could claim business loss due to land resumption. DS/PL advised that this might not be possible as the primary use of premises was already defined in the lease conditions which would form the calculation basis for compensation. He assured members that resumption of tenanted flats would not adversely affect the livelihood of the owners as the statutory compensation alone would be sufficient for an owner to purchase a replacement flat of comparable age and size as the flat being resumed. By letting it out, he could collect the same amount of rent as before. With the payment of 50% of HPA for the first tenanted flat, the owner could buy a newer flat and charge a higher rent.

9. In view of the slump in property prices over the past few years, Mr LEE Cheuk-yan cautioned that the amount of compensation payable to owners might not be sufficient to repay the mortgage loan, not to say to buy a new replacement flat. DS/PL advised that URA would deal with hardship cases in a fair and compassionate manner. A bridging loan might be offered to tide needy owners over the difficult period.

10. On uncompleted LDC projects, Ms Emily LAU asked if freezing surveys would be re-conducted for the 25 announced LDC projects. DS/PL advised that he was not in a position to comment on this which was a decision to be made by URA after its establishment in November 2000.

11. On the Provisional URA (PURA), the Chairman pointed out that as LegCo would dissolve in July 2000, no LegCo Members would be available for appointment to PURA which was to be established after July 2000. DS/PL advised that if it was decided that LegCo Members should be appointed to the PURA Board, the Government would reserve the requisite number of seats for Members of the newly elected LegCo.

12. On clause 3(3) of the Bill, the Chairman noted with concern that despite that URA would act as the land assembly agent for the Government in the nine urban renewal target areas, residents aggrieved by the land resumption might not be able to sue the Government if URA was not regarded as a servant or agent of the Government. The Assistant Legal Adviser 1 (ALA1) confirmed that aggrieved residents could not institute legal proceedings against the Government for any act of URA.

13. On non-executive directors of the URA Board, Mr NG Leung-sing reiterated that they should not be held personally liable for any decision made in the name of the URA Board since they would not be remunerated. He also urged the Administration to alert the candidates concerned the duties and responsibilities of non-executive directors of the URA Board. DS/PL responded that it was the Administration's intent that non-executive directors of the URA Board should not be held personally liable for any decision made in the name of the Board. While acknowledging the Administration's assurance, Ms Emily LAU remained concerned that they might still have to meet the legal costs for any lawsuit arising thereof. The Chairman remarked that URA should have in place indemnity insurance for its non-executive directors. He added that in order to avoid unnecessary disputes, the Administration should reflect its policy intent in the Bill to exempt non-executive directors of the URA Board from any legal claims against the decisions of the Board. DS/PL however considered the proposed exemption not appropriate. He concurred with ALA 1 that while non-executive directors of the URA Board should not be held personally liable for any decision collectively made by the Board, a director would be liable for tort if he, as a URA Board member, made a negligent or deceitful statement to a third party whom he knew would rely upon it. At members' request, the Administration undertook to set out on paper the policy intention that non-executive directors of the URA Board would not be held personally liable for any decision made in the name of the Board and the costs of proceedings arising thereof.

(*Post-meeting note:* The Administration's response was circulated to members vide LC Paper No. CB(1) 1864/99-00(01).)

14. On clause 5(f), DS/PL advised that the Administration considered it unnecessary to state explicitly in the Bill that any order made by CE under the clause would be subsidiary legislation as it was obvious that such an order would be a subsidiary legislation. Prior to making the order, CE would be required under Article 56 of the Basic Law to consult the Executive in Council. The order would be published in the Government Gazette and subject to the procedures laid down in section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), viz, it should be laid down on the table of LegCo and subject to "negative vetting".

CE's reply to members' request for the Housing Authority (HA) to allocate 20% of its annual quota for the purpose of rehousing affected tenants on compassionate ground at the discretion of URA

(LC Paper No. CB(1) 1809/99-00)

15. Members were dissatisfied with the slow progress of the negotiation between the Secretary for Housing and HA. They considered that representatives from the Housing Bureau should be invited to attend the meeting on 14 June 2000 to explain how the matter was going on.

(Post-meeting note: A letter to the Housing Bureau was issued on 10 June 2000.)

II Clause-by-clause examination of the Bill

(LC Paper No. CB(1) 1424/99-00(06) and 1802/99-00(04))

Clause 4. Establishment of Board of Authority

16. Mr LEE Wing-tat remarked that he would move a Committee Stage amendment to the clause requiring the Administration to appoint an elected LegCo Member to the URA Board.

17. As regards the honoraria for the Chairman and the non-executive directors of the URA Board, DS/PL advised that the present thinking was to peg the honoraria to a certain percentage of the pay scale of a senior civil servant (say a D8 Officer). Notwithstanding, a decision had yet to be made and members' input in this regard would be most welcomed.

Clause 5. Purposes of Authority

18. No particular comments were made on the clause.

Clause 6. General power of Authority

19. ALA 1 proposed and DS/PL undertook to consider the following amendments to the clause:

- to delete the phrase "by way of development" in clause 6(1);
- to add the phrase "preserve or restore" in clause 6(2)(e) as in the case of section 5 of the Antiquities and Monuments Ordinance (Cap. 53);
- to add the phrase "subject to section 25" in clause 6(2)(k) to ensure that prior approval from the Chief Executive in Council would be sought before any land resumed under LRO could be disposed of; and
- to add the word "license" in clause 6(2)(k).

DS/PL however considered it not necessary to include the word “improve” in clause 6(2)(e) as proposed by Ms Emily LAU taking into account views of deputations. He pointed out that improvement to buildings which were not properly maintained would come under the remit of a new proposal for the preventive maintenance of buildings. A statutory scheme would be introduced if the proposal was supported. The task of implementing the scheme would be shared between the Buildings Department and URA which would be responsible to implement the scheme within the nine target areas. As regards buildings of historical, cultural or architectural interest, DS/PL advised that they should be preserved rather than improved.

20. As to whether URA would carry out freezing surveys on non-residential premises under clause 6(2)(m), DS/PL clarified that the survey and census referred to in the clause would apply to both residential and non-residential premises.

Clause 7. Members to declare interests

21. On clauses 7(3) and (4), DS/PL advised that URA would enter the particulars contained in any declaration of interest in the register of declared interest as soon as practicable. Ms Emily LAU however considered that there was a need to specify in the Bill a time limit within which the process should be completed. The Administration was also requested to relay members’ suggestion to URA after its establishment that the register of declared interest and the record of directors’ attendance at URA Board meetings be uploaded onto the Internet.

(*Post-meeting note:* The Administration’s response was circulated to members vide LC Paper No. CB(1) 1864/99-00(01).)

22. On clause 7(5), Ms Emily LAU asked if a member of the URA Board who had in any way direct or indirect interest in a contract made or proposed to be made by URA would receive the discussion papers on that contract. DS/PL advised that as a standing practice, the URA Board Secretariat would not send the discussion papers to those members who had a direct interest in the contract. He however did not rule out the possibility that the Secretariat might inadvertently send the papers to those members who had an indirect interest in the contract not known to it. Under such circumstances, the members concerned should return the papers to the Secretariat. As to how URA could ensure that the members would return the papers, the Assistant Director/Urban Renewal (Acting), Planning Department advised that the URA Board might adopt the model of the Town Planning Board under which a code of conduct would be worked out by the Board for compliance by its members.

23. ALA 1 pointed out that unlike LDC, URA Board members who had a direct or indirect interest in an URA contract might, with permission, take part in the discussion of the contract under clause 7(5). DS/PL advised that as Hong Kong was a small place with limited supply of professionals relevant to the work of URA, clause 7(5) as drafted would provide greater flexibility for URA in the appointment of professionals to the URA Board. He nevertheless had no objection to revise clause 7(5) along the line of the relevant provision in the Land Development Corporation Ordinance (Cap. 15).

(*Post-meeting note:* The Administration's response was circulated to members vide LC Paper No. CB(1) 1864/99-00(01).)

24. On clause 7(7), DS/PL advised that the purpose of the clause was to prevent a person (or company) who felt aggrieved by a decision of the URA Board from challenging the validity of that decision on a technicality such as a director of the URA Board had forgotten to declare an indirect interest which was no material to the decision-making process. As to whether clause 7(7) was a common provision in other legislation concerning statutory organizations, DS/PL undertook to revert to the Bills Committee after checking.

(*Post-meeting note:* The Administration's response was circulated to members vide LC Paper No. CB(1) 1864/99-00(01).)

II Any other business

25. The Chairman reminded members that the deadline for giving notice of Committee Stage amendments to the Bill was 16 June 2000.

26. There being no other business, the meeting ended at 11:00 am.

Legislative Council Secretariat

6 November 2000