

立法會
Legislative Council

LC Paper No. CB(1) 2129/99-00
(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
Wednesday, 14 June 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 HO Sai-chu, SBS, JP
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Wing-tat
Hon LEE Cheuk-yan
Hon NG Leung-sing
Hon James TO Kun-sun
Hon Christine LOH
Hon CHAN Yuen-han
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
- Members absent** : Hon Gary CHENG Kai-nam, JP (Deputy Chairman)
Hon Ronald ARCULLI, JP
Dr Hon LEONG Che-hung, JP
Hon LEUNG Yiu-chung
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon FUNG Chi-kin
- Public officers attending** : **Agenda items I & II**

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

Agenda item II

Mrs Elaine TANG
Principal Assistant Secretary for Housing (2)

Mr K N CHEUNG
Assistant Director/Operation and Redevelopment
Housing Department

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 Clause-by-clause examination of the Bill
(LC Paper No. CB(1) 1424/99-00(06) and 1802/99-00(04))

Clause 24. Power of Secretary to recommend resumption

Referring to the flow chart showing the major steps in processing objections to a development project (Annex to LC Paper No. CB(1) 1864/99-00(02)), Mr LEE Wing-tat did not agree that it should take the Secretary for Planning and Lands (SPL) one to two months to consider a project and all objections which were not withdrawn. He opined that the duration should be reduced with a view to expediting the objection procedure. The Deputy Secretary for Planning and Lands (DS/PL) responded that the duration was appropriate taking into account past experience. On the objection period for owners affected by an amended project, Mr LEE remained of the view that the one-month objection period was insufficient, particularly when owners in the original project were given six to seven months to raise objections. To tackle the problem, URA should avoid making amendments to redevelopment projects as far as practicable. DS/PL undertook to consider extending the objection period to two months.

(*Post-meeting note:* The Administration's response was circulated vide LC Paper No. CB(1) 1872/99-00(02).)

2. On compensation, Mr LEE Wing-tat asked if owners who owned not less than 90% of the undivided shares in a lot would be considered as capable of redeveloping the lot by themselves and hence eligible for different compensation. DS/PL explained that where resumption under the Lands Resumption Ordinance (Cap. 124) (LRO) was ordered, a notice of resumption would be served on the owners. If the owners concerned could, before the actual reversion of ownership to the Government, demonstrate that they owned all the undivided shares in the lot and that the lot was in single ownership, compensation would be calculated taking into account both the existing use value and the development value of the lot. The higher value of the two would be offered as statutory compensation to the owners. However, if the owners could only acquire not less than 90% of the undivided shares in the lot and would need to apply to the Lands Tribunal under the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) for an order for the sale of all the undivided shares in the lot for the purposes of the redevelopment of the lot before the actual reversion of ownership to the Government, compensation would be calculated using only the existing value of the lot. As to how owners could demonstrate that the lot was in single ownership, DS/PL advised that they would need to sign an agreement in this regard.

3. Mr LEE Cheuk-yan opined that Administration should assess the changes in property prices in the proximity of a project area during the interim between the service of a notice of resumption and the actual reversion of ownership to the Government. The Chairman also expressed concern that the compensation might not be sufficient for the owners to purchase a comparable replacement flat, particularly in the event of a sudden surge in property prices during the interim. He asked if owners could be given an opportunity to negotiate on the compensation under such circumstances. DS/PL explained that as a notice of resumption would be served on the owners 90 days before the actual reversion of ownership to the Government, this would provide ample time for the owners to look for a suitable replacement flat. As regards negotiation, DS/PL confirmed that owners could negotiate with the Lands Department (LandsD) on the compensation within the 90-day period. They could also choose to wait until the land was reverted to the Government so that compensation would be calculated according to the existing value of the property.

4. Mr James TO asked how long it would take the Administration to pay out the compensation to owners. DS/PL advised that according to LRO, LandsD would make an offer of compensation to the owners within a period of 28 days from the date on which the land would be reverted to the Government. Subject to confirmation of the title-deeds by the Administration and acceptance of the compensation by owners, compensation would be paid out within one week after the actual reversion of ownership to the Government. Mr LEE Wing-tat however expressed concern that it might take LandsD a long time to confirm the title-deeds. DS/PL assured members that efforts would be made to expedite the land assembly process. LandsD was considering whether some of the work in respect of land resumption could be contracted out to URA which would have experienced staff transferred from the Land Development Corporation (LDC) to undertake the work. At members' request, the Administration undertook to provide a flow chart showing the major steps in processing an application for land resumption by URA and the subsequent payment of compensation/ex gratia allowances to persons whose properties were resumed.

(*Post-meeting note:* The Administration's response was circulated vide LC Paper No. CB(1) 1872/99-00(02).)

5. On Home Purchase Allowance (HPA), the Chairman asked if the Administration would consider using the length of property ownership as an eligibility criterion for HPA as proposed by the Land and Building Advisory Committee (LBAC). In reply, DS/PL cautioned that it might not be fair to those owners who could not meet the required length of property ownership by a narrow margin. The conduct of freezing surveys was a more feasible option to determine the eligibility for HPA. Mr LEE Wing-tat however pointed out that there was no difference between the two options since they both had an arbitrary cut-off point. On the need to re-conduct freezing surveys for the 25 outstanding LDC projects, DS/PL advised that a decision in this respect had yet to be made.

6. Mr LEE did not agree that persons who acquired a flat after the freezing survey would not be eligible for HPA. He expressed concern that this would affect the property prices in old urban areas and inhibit owners who were in genuine need of money from selling their flats. DS/PL advised that the purpose of the current arrangement was to deter speculation of properties in old urban areas. According to past experience, many properties in old urban areas were owned by private developers. They would be eligible for HPA upon redevelopment of these flats by URA. If prospective buyers were also eligible for HPA after the conduct of freezing survey, it would encourage the developers to sell their flats for profiteering. Mr LEE was not convinced of the Administration's response. He opined that instead of depriving prospective buyers of the opportunity for HPA, efforts should be made to discourage the transaction of multiple flats by a single owner after the freezing survey. The Administration should make it clear that owners of multiple flats would only be eligible for one payment of HPA, regardless of the number of properties they owned, and that no HPA would be given for their subsequent flats. DS/PL considered Mr LEE's suggestion hard to enforce as individual owners could hold a number of properties using different names. He nevertheless pointed out that no more than two HPA payments to an owner was allowed for a resumption exercise.

7. Mr LEE Cheuk-yan enquired about the policy intent for giving no more than two HPA payments to an owner in a resumption exercise. DS/PL explained that HPA was an ex gratia allowance payable to affected owners to enable them to purchase a ten-year old replacement flat comparable in size and in the same locality of the resumed flat. The purpose of HPA was to help owners to improve their living conditions. Under the existing policy, full HPA would be paid for owner-occupied flats and flats occupied by owners' immediate family. For tenanted flats, HPA would be paid at 50% of the full allowance. As owners who owned more than two flats should be capable of improving their own living conditions, the Administration considered it not appropriate to subsidize these owners using public money.

8. Mr James TO did not agree that HPA should be given on a need basis. He opined that the Administration should take into account the development value of the other flats of the owners and compensate them accordingly. Mr LEE Wing-tat echoed that as the expedited land assembly process under the Bill would enable URA to save substantial amount of interest incurred from land resumption, a more generous compensation package should be offered to affected owners.

9. DS/PL advised that it was a matter of legal principle since the purpose of urban renewal was to improve the living conditions of residents in old urban areas rather than to share with them the benefits of redevelopment. He nevertheless assured members that the Administration would take into account their views before the final compensation package for residents affected by urban renewal was submitted to the Finance Committee for approval. As members' support to the Bill would hinge on satisfactory compensation and rehousing arrangements, Miss CHAN Yuen-han urged that the Administration should inform members of its decision on the compensation package for affected residents before the Second Reading debate of the Bill. DS/PL took note of Miss CHAN's view.

10. Ms Emily LAU and Mr LEE Cheuk-yan considered it necessary for the Administration to include in the Bill the appeal mechanism to deal with appeals by persons aggrieved by the decisions of the Director of Lands on the payment of HPA. DS/PL explained that clause 24 was modelled after a similar provision under LRO. As the payment of HPA was not provided under LRO, it would not be appropriate to include HPA and the proposed appeal mechanism in the Bill. At members' request, the Administration undertook to provide a paper explaining the proposal for the establishment of a non-statutory appeal committee on HPA.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(1) 1872/99-00(02).)

11. On clause 24(3), Mr James TO considered that there was a need for SPL to mention in the Second Reading debate of the Bill that URA would conduct impact assessment for individual projects, and that it would make available "suitable residential accommodation" within the same district for rehousing affected tenants.

Clause 25. Disposal of land resumed under Lands Resumption Ordinance

12. At the request of Mr James TO, DS/PL undertook to consider specifying in clause 25(1) that disposal of resumed land should not be approved unless it was in the public interest to do so. As regards the meaning of "public interest", DS/PL advised that this had been defined under LRO. Mr LEE Wing-tat recalled that there had been a case where a piece of land was resumed in the public interest under LRO to build a road. However, the resumed land was later disposed of to the private sector and only a small part of the land had been used for building the proposed road. To prevent future recurrence, Mr LEE opined that the Administration should specify in clause 25 the circumstances under which the Chief Executive in Council should approve the disposal of resumed land. DS/PL took note of Mr LEE's view.

(Post-meeting note: The Administration's response was circulated vide LC Paper No. CB(1) 1872/99-00(02).)

Clause 26. Power to enter and inspect

13. On clause 26(1), DS/PL advised that the Administration would add "and for connected purposes" at the end of the sentence in order to facilitate URA to collect data for the impact assessment.

14. On clause 26(4), Miss CHAN Yuen-han remained concerned that the clause as drafted might lead to confrontation. The Senior Assistant Law Draftsman (SALD) reiterated that the power of entry under clause 26(4) could only be effected for the purpose of preparing an assessment on alternative 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 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 the daylight, use such force as was necessary to enter and inspect the land or premises and take the particulars required. He stressed that the power under clause 26(4) was necessary and was quite common in ordinances of similar nature as the Bill. DS/PL added 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 of entry 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 HPA for their premises might try to impede the conduct of freezing survey on their tenants by preventing the authorized persons from entering or inspecting their premises. He nevertheless pointed out that the similar provision under the Land Development Corporation Ordinance (Cap. 15) (LDCO) had never been effected for the past 12 years. While acknowledging the Administration's assurance, Mr James TO considered it necessary for SPL to mention the policy intent of clause 26(4) in the Second Reading debate of the Bill.

15. To alleviate the public's concern on the extensive power of URA to enter and inspect a premises, Mr TO opined that the Administration should add "minimum" before "force" in clause 26(4). SALD responded that there was no concept in law regarding the level of force to be used. As regards the Chairman's suggestion of replacing "force" by "measures", SALD emphasized the need to protect the authorized persons from being accused of assaulting someone in the scene. He pointed out that the term "measures" might be widely interpreted as things other than force which was commonly known as the power to be exercised by disciplinary officers such as the police. He nevertheless did not object to add "reasonable" before "force" as proposed by Mr LEE Cheuk-yan.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(1) 1872/99-00(02).)

16. Mr James TO cautioned that clause 26(5) might be difficult to enforce since the authorized persons could only require "any person on that land" to provide information. On clause 26(5)(a), Mr TO asked how a person could prove his identity apart from producing his identity card. Expressing similar concern, the Chairman opined that clause 26(5)(a) should be amended to require affected residents "to produce his identity card issued under the Registration of Persons Ordinance (Cap. 171) for inspection in order to establish his identity." Mr LEE Wing-tat also asked if the Administration would consider imposing penalty for false declaration by owners in freezing surveys. DS/PL clarified that the freezing survey was only an exercise to collect preliminary data on affected residents. Other documentary proof would be required at a later stage to affirm their actual eligibility for compensation and rehousing. He nevertheless did not object in principle to make it an offence for false declaration during freezing surveys.

17. In reply to Ms Emily LAU's question, DS/PL confirmed that residents who were not registered in the freezing surveys due to reasons such as being away from Hong Kong could apply for re-registration at a later stage provided that they could produce sufficient evidence to support their applications.

18. Mr James TO asked if the inspection referred to in clause 26(5)(a) included the taking of photos of the premises. DS/PL advised that at present, LDC staff would prepare detailed drawing of the premises during inspection. Photo-taking however might not be feasible without the permission of the owners concerned as it would contravene the Personal Data (Privacy) Ordinance (Cap. 486).

Clause 27. Secretary may obtain information

19. Mr James TO expressed concern that SPL could obtain any information from URA by virtue of clause 27. DS/PL advised that the clause was modelled after a similar provision under LDCO. The purpose was to enable SPL to obtain the necessary information required to answer questions, including those from Members, about the work of URA.

Clause 28. Chief Executive may give direction

20. Mr James TO enquired about the circumstances under which the Chief Executive (CE) might give direction to URA under clause 28. DS/PL advised that there might be cases where the URA Board might insist on the implementation of certain decisions despite repeated opposition from the public officers in the Board. CE might need to give direction in this respect. He nevertheless emphasized that the clause referred to conferred on CE residual power to cater for special circumstances.

Clause 29. Authority may make bylaws

21. No particular comments were made on this clause.

Clause 30. Service of notices

22. Mr James TO asked how LandsD could locate owners who were not in Hong Kong. DS/PL admitted that while efforts, including those listed under clause 30, would be made to locate the owners, there might be cases where LandsD might not find the owners, particularly those resided in overseas countries. To this end, LandsD would consider contracting out this part of the work relating to land resumption to URA which would have experienced staff from LDC to undertake the work. He also took note of Ms Emily LAU's suggestion that more notices should be posted in the event of a large project area.

Clause 31. Repeal of Land Development Corporation Ordinance

23. As to how URA would implement the projects outstanding from LDC, DS/PL advised that there were seven ongoing projects (i.e. projects which had started, but not yet completed) and 25 announced projects (i.e. projects which had been announced, but not yet started). If the Bill was passed into law, URA would continue to implement the seven ongoing projects as if LDCO had not been repealed. However, URA would be given the

discretion to decide on non-statutory issues, such as rehousing of the affected residents, in implementing these ongoing projects. The important point was to ensure that the offers by URA would not be inferior to that of LDC. As regards the remaining 25 announced projects, DS/PL advised that these would be implemented in accordance with the provisions in the Bill.

Clause 32. Transfer of properties, assets, contracts, etc.

24. At the request of Mr NG Leung-sing, the Government Counsel undertook to reconsider replacing the Chinese term of “transfer” from “移轉” to “轉移”.

Clause 33. Consequential amendments

25. No particular comments were made on the clause.

Schedule

Section 1. Terms and conditions of appointment and dismissal

26. Referring to the draft Committee Stage amendments (CSAs) of the Administration (LC Paper No. CB(1) 1802/99-00(04)), the Assistant Legal Adviser 1 (ALA 1) enquired about the rationale for separating the appointment of the Chairman and the Managing Director of URA into two subsections. DS/PL explained that this aimed to enhance clarity as the Chairman would be a non-executive director whereas the Managing Director would be an executive director.

27. Ms Emily LAU noted that under sections 1(5)(a) and (b), CE might declare the office of a member of the URA Board to be vacant if the member concerned had been absent from three consecutive meetings of the URA Board without the permission of the Board or had become bankrupt or made an arrangement with his creditors. She asked if these were common provisions in other ordinances of similar nature. DS/PL answered in the affirmative. He nevertheless pointed out that section 1(5)(a) would only be effected if the member concerned was absent without prior notice. As regards section 1(5)(b), DS/PL advised that it was modelled after the Companies Ordinance (Cap. 32) which stipulated that any person who had become bankrupt or made arrangement with his creditors should not be a director of any company.

28. To enhance the transparency of URA, Ms LAU remained of the view that the Administration should specify in the Schedule the types of URA Board meetings which could be opened to the public. Mr LEE Wing-tat however opined that the best way to enhance the transparency of URA was to require the URA Board to open up all its meetings to the public unless in exceptional circumstances where sensitive issues were discussed. He quoted the example of the Housing Authority (HA) where board meetings were usually held in two parts. The part of meetings which was not of sensitive nature would be opened to the public whereas the part of meetings involving discussion of sensitive issues would be held in camera. DS/PL advised that as most of the URA Board meetings would deal with sensitive issues such as award of contracts, the proposal of opening up the part of meetings which was not of sensitive nature might not be useful. Besides, as the proposed opening up of meetings was in fact an administrative arrangement, DS/PL considered it inappropriate to include this in the Bill. He

nevertheless undertook to include in the Urban Renewal Strategy the need for URA to open up its Board meetings to the public as far as practicable.

Committee Stage amendment to be moved by the Chairman

29. ALA 1 advised that in the light of members' concern on whether an order made under clause 5(f) would be subsidiary legislation, the Legal Service Division had prepared the draft CSA which was tabled at the meeting. DS/PL remarked that the Administration had consulted the Department of Justice which confirmed that any order made by CE under clause 5(f) would be subsidiary legislation and subject to "negative vetting" of the Legislative Council. He assured members that SPL would mention the policy intent of clause 5(f) in the Second Reading debate of the Bill. Members subsequently agreed that there was no need for the Chairman to move the CSA.

II Discussion on rehousing matters and issues outstanding from previous meetings

Rehousing matters

30. At the invitation of the Chairman, the Principal Assistant Secretary for Housing (2) (PAS of H (2)) remarked that HA had agreed in principle to be one of the rehousing agents for URA. Under the preliminary agreement between HA and the Government, HA would provide an annual quota of public rental housing (PRH) units and interim housing (IH) units from its existing stock or from its newly-built unit, if available, to URA for rehousing affected tenants. As regards the proposal that HA should reserve 20% of its annual quota of PRH units for URA for the purpose of rehousing affected tenants on compassionate ground at the discretion of URA, PAS for H (2) advised that the Housing Bureau (HB) had requested the Housing Department (HD) to put forward the proposal to HA for consideration. To her knowledge, the proposal would be discussed by HA in due course.

31. Ms Emily LAU noted with concern that that contrary to the information given by DS/PL that the proposal had already been brought up with and subsequently rejected by HA, it had never been discussed by HA. PAS for H (2) clarified that the rehousing arrangements for tenants affected by urban renewal was discussed by HA in April 2000. It was decided that affected tenants should be required to meet the prevailing eligibility criteria for PRH as all other categories of PRH applicants. Those who failed the eligibility criteria could be provided with rehousing to IH units of HA/PRH units of the Housing Society or cash compensation offered by URA. Compassionate rehousing would only be considered upon referral by the Social Welfare Department. She emphasized that the proposal that HA should reserve 20% of its annual quota of PRH units for URA for the purpose of rehousing affected tenants on compassionate grounds at the discretion of URA had not been considered by HA as this was raised after April 2000.

32. The Chairman however pointed out that the reply from the CE's Office (LC Paper No. CB(1) 1809/99-00) which stated that the Secretary for Housing (S for H) had agreed to raise the matter with HA. Mr LEE Wing-tat expressed great disappointment that instead of taking the initiative to talk to HA direct, HB had asked HD to convey the message. As HB could request CE to give direction to HA if it supported the proposal,

Mr LEE Cheuk-yan enquired about HB's stance in this respect. PAS for H (2) advised that since the current proposal was at variance with the long established policy on the allocation of PRH, it would be more appropriate to leave the matter for HA to decide.

33. Given that the Planning and Lands Bureau was in support of the proposal while HB was against it, Mr LEE Cheuk-yan enquired about the stance of the Central Government. DS/PL advised that he was not in a position to comment on this since S for H had yet to discuss the matter with HA. Ms CHAN Yuen-han however cautioned that any delay on the part of HA would directly affect the passage of the Bill. Noting that the Urban Renewal Authority Ordinance would come into operation on a day to be appointed by SPL by notice in the Gazette, Mr James TO remarked that members could still oppose to the commencement of the Ordinance if they were not satisfied with the rehousing arrangements offered by HA after the passage of the Bill. However, members might need to amend clause 1(1) to the effect that any notice made under the clause should be subject to "positive vetting" of the Legislative Council.

III Any other business

34. Owing to time constraints, members agreed to hold another meeting on Saturday, 17 June 2000, at 8:30 am to continue discussion on rehousing matters and issues outstanding from previous meetings. They also agreed that S for H should be invited to attend the next meeting. In the meantime, HB was requested to seriously consider members' views.

(Post-meeting note: A letter to S for H was issued on 14 June 2000.)

35. There being no other business, the meeting ended at 12:30 pm.

Legislative Council Secretariat

4 January 2001