

立法會
Legislative Council

Ref: CB1/BC/9/99/2

LC Paper No. CB(1)1969/99-00

(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
Monday, 27 March 2000, at 4:30 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 HO Sai-chu, SBS, JP
Hon LEE Wing-tat
Hon LEE Cheuk-yan
Hon NG Leung-sing
Hon Ronald ARCULLI, JP
Hon James TO Kun-sun
Hon Christine LOH
Hon CHAN Yuen-han
Hon LEUNG Yiu-chung
Hon Andrew WONG Wang-fat, JP
Hon TAM Yiu-chung, GBS, JP
- Members absent** : Ir Dr Hon Raymond HO Chung-tai, JP
Dr Hon LEONG Che-hung, JP
Hon WONG Yung-kan
Hon Emily LAU Wai-hing, JP
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)
- 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

(LC Paper Nos. CB(3)534/99-00, CB(1)954/99-00, 1137/99-00 (Appendix III) and 1222/99-00(01))

Members continued to discuss Appendix III to LC Paper No. CB(1) 1137/99-00 which set out the comparison of the main provisions of the Land Development Corporation Ordinance (Cap. 15) (LDCO), the Urban Renewal Authority (URA) Bill published on 22 October 1999 (White Bill) and the URA Bill published on 3 February 2000 (Blue Bill).

Planning procedures

2. The Deputy Secretary for Planning and Lands (DS/PL) took the opportunity to respond to a question on the need for an appeal mechanism against the Secretary for Planning and Land (SPL)'s decision on objections against proposed development projects raised by members of the then Subcommittee to Study the URA White Bill. He pointed out that under the existing LDCO, there was no formal procedure for lodging objections against a development project which required no amendment to the relevant outline zoning plan. The provision of an objection channel for persons affected by development projects under clause 21 of the Blue Bill was a major improvement to the present system. Given that the Blue Bill already provided an elaborate system to consider objections against proposed development projects, the Administration did not consider a further tier of appeal necessary. Besides, such a mechanism would inevitably prolong the planning procedures and delay the implementation of the project. The longer the approval process, the greater the possibility that "imposters" might move in the project areas with a view to obtaining rehousing to public rental housing (PRH).

3. Having regard to the heavy involvement of SPL in formulating the urban renewal strategy and planning urban renewal projects, Mr LEE Wing-tat remained unconvinced that SPL should have a final say on objections against proposed development projects as this would constitute a conflict of interest. Expressing similar concern, the Chairman pointed out that under the existing Town Planning Ordinance (Cap. 131), all objections against development plans were considered by the Town Planning Board (TPB) instead of SPL. DS/PL clarified that URA had to seek the approval of TPB in the case of development schemes which required changes to the relevant outline zoning plans.

4. To prevent people from moving into designated project areas as in the case of Tsuen Wan Seven Streets, Mr LEE Wing-tat opined that the Administration should make it clear that those who moved into the project areas after the freezing survey would not be eligible for rehousing to PRH. DS/PL however considered that it might be unfair to deprive the rehousing opportunity of those residents who moved into the project shortly after the freezing survey, particularly if the project was implemented two or three years after the freezing survey. Miss CHAN Yuen-han did not agree that the Administration should use the time factor as an excuse to obviate the need for an appeal channel. DS/PL explained that as a freezing survey would be conducted on the same day as the publication of the project in the Gazette, any delay in the process as a result of the prolonged objection period would exacerbate the anxiety of the residents concerned. It would also create problems for URA in the control of population within the project areas. Besides, the prolonged objection procedure would enable private developers or owners to redevelop certain buildings within the project areas which might affect the viability of the entire project. It would also delay the payment of compensation to owners. Once a project was made known to the public, owners would find it difficult to sell the properties or would have to sell them at low prices. Prolonging the approval process would be to their disadvantage.

5. Mr LEE Wing-tat opined that the concern about prolonged objection period could be mitigated by imposing a statutory time limit within which the procedure should be completed. Mr LEUNG Yiu-chung agreed with Mr LEE that a specified time limit on each procedure could expedite the process on the one hand and enhance transparency on the other. DS/PL replied that the imposition of a time limit for objection procedures might not be practicable since people could seek judicial review at different redevelopment stages. The proposed appeal mechanism would further delay the project approval process. Moreover, any changes within the project area during the prolonged objection period would affect the feasibility of the entire project. DS/PL nevertheless undertook to re-consider providing an appeal channel for development projects and revert back to the Bills Committee in due course.

(Post-meeting note: The Administration's response was circulated vide LC Paper No. CB(1) 1364/99-00(07).)

Resumption and disposal of land

6. On *land resumption*, Mr LEE Wing-tat asked how URA would determine the

priority for acquiring the land needed for an urban renewal project. DS/PL advised that in the Urban Renewal Strategy Study completed by the Planning Department in September 1999, 200 projects had been identified for priority development on account of the age, physical conditions and fire safety design of individual buildings. This would serve as a road map for URA to formulate its urban renewal programme. In view of the substantial pecuniary interest involved in the acquisition of land for redevelopment, Mr LEE emphasized the need for proper checks and balances on URA in formulating the urban renewal programme to prevent possible abuse of power and profiteering. DS/PL replied that while flexibility would be given to URA to draw up its own urban renewal programme taking into account the availability of resources, this had to be in conformity with the Government's urban renewal strategy. As URA would be required to submit each year a draft corporate plan setting out its proposed programme of projects for the next five years, including the projected income and expenditure for projects, and a draft annual business plan setting out the projects to be implemented in the next financial year to the Financial Secretary for approval, this would provide an opportunity for the Administration to monitor the work of URA. Furthermore, the Chairman and the two executive directors of URA would be held accountable to the public since they had to attend meetings of committees and subcommittees of the Legislative Council to answer questions raised by Members.

7. As to whether URA had to acquire a certain percentage of the land needed for an urban renewal project before it could apply to SPL requesting him to recommend to the Chief Executive in Council (CE in C) the resumption of the land required, DS/PL answered in the negative as the policy intention of the Blue Bill was that SPL might recommend resumption irrespective of whether URA had taken any steps to acquire the land. Mr LEUNG Yiu-chung was not convinced of the Administration's response. He considered that owners should be given an opportunity to negotiate with URA the compensation for resumption of the land. DS/PL explained that the time-consuming land assembly process was the main stumbling block which LDC had faced in implementing urban renewal projects over the past years. Under the existing mechanism, LDC was first required to take all reasonable steps to acquire affected properties within the project area. This usually involved protracted negotiations with the owners which had significantly increased the development costs of the projects of LDC. If there were any properties which LDC was unable to acquire, it would then request SPL to recommend to CE in C the resumption of such outstanding properties. In order to expedite the process, instead of requiring URA to first negotiate and acquire the land needed for an urban renewal project, URA would be empowered under the Blue Bill to apply direct to SPL to recommend resumption of the land by CE in C. In reply to Mr Andrew WONG's question, DS/PL confirmed that URA could resume land of public housing estates sold under the Tenants Purchase Scheme under the provisions of the Bill.

8. Since direct resumption of land could lead to confrontation, Mr James TO remained of the view that URA should endeavour to acquire the land required through negotiation with owners concerned before resorting to resumption. DS/PL assured members that URA would discuss with the affected owners on compensation matters after publication of the redevelopment proposal but before publication of the land

resumption notice in the Gazette. However, the negotiation might not be useful in view of the short lead time between the two events.

9. Given the extensive power of URA in respect of land resumption, Ms Christine LOH considered that proper checks and balances should be in place to protect the rights of property owners. In response, DS/PL stressed that the Government's policy on land resumption for urban renewal was to balance the interest of all sectors of the community and not to sacrifice the lawful rights of any particular group. The three guiding principles for land assembly for urban renewal were that owners would be fairly and reasonably compensated, that tenants would be provided with appropriate and affordable rehousing, and that the entire district would benefit as a result of re-planning and restructuring. Apart from the statutory compensation provided under the Lands Resumption Ordinance (Cap. 124) (LRO), owner-occupiers of domestic properties would be eligible for a Home Purchase Allowance which would enable them to purchase a replacement flat of about 10 years' old comparable in size and in the same locality of the resumed flat.

10. As owners who held a substantial part of the undivided shares in a lot might have the ability to redevelop the lot by themselves, the Chairman asked if URA would consider offering a different compensation package to these owners for land resumption. DS/PL advised that under the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545), a person could only make an application to the Lands Tribunal for an order for the sale of all the undivided shares in a lot for the purpose of redevelopment if he owned not less than 90% of the undivided shares of the lot, which was difficult to acquire in practice. URA would be empowered under the Blue Bill to apply for resumption of any land required for urban renewal, including those owned by a single owner. Notwithstanding, owners might participate in a redevelopment project provided that they were prepared to share the development risk of the project. Having regard to the substantial financial risks involved, such a mode of project implementation might not be suitable for small property owners.

11. On *disposal of land resumed under LRO*, Mr LEE Wing-tat expressed doubt on the effectiveness of URA if it had to assume the multiple roles of land assembly agent, developer and sale agent. Given that private developers were more experienced and efficient in implementing redevelopment projects, Mr LEE considered it desirable to tap into the resources and expertise of private developers in this respect. He asked if the Administration had assessed the difference in development cost if an urban renewal project was to be implemented by private developers instead of URA. DS/PL explained the three ways through which URA could implement a redevelopment project. URA could implement the project on its own; in association with a joint venture partner or partners; or by selling the land to a private developer. The last mode was considered not desirable having regard to the possible selling price of the land and the high cost for resuming the land. For members' reference, the cost of rehousing each eligible person to a public rental flat of the Hong Kong Housing Society was about \$600,000. In order to reap the profits from redevelopment, URA needed to be involved in the physical development of the site, either on its own or in partnership with other developers.

12. Mr James TO asked how URA could identify a suitable joint venture partner during the short lead time between the publication of the redevelopment proposal and the land resumption notice in the Gazette. DS/PL explained that at present, LDC was required under LDCO to conduct its business according to prudent commercial principles. As a self-financing organization, LDC had to ensure that its joint venture partners would absorb any loss incurred from redevelopment projects. Such an approach had become less effective as a result of the scarcity of sites for profitable redevelopment and a less exuberant property market. Unlike LDC, URA would have access to a number of financial and non-financial facilities to enable it to implement urban renewal projects. These included borrowing from the Government; waiving land premia for urban renewal and rehousing sites; packaging financially viable projects with non-viable ones; relaxing the plot ratio for the project areas to the maximum permissible under the law; and exempting Government/Institution/Community facilities within project areas from the calculation of the gross floor area. The new approach would enhance the financial viability of urban renewal projects.

13. Mr Andrew WONG enquired about the payment of land premia. DS/PL explained that at present, LDC was required to surrender the part of land it acquired within a project area to the Government before direct resumption of the remaining part of land was effected. The Administration would then issue a new land grant for the entire lot to LDC. As the future development value of the new lot would be higher than the present value of the land, LDC had to pay a land premium to the Administration. Given that the land premium comprised a substantial part of the total redevelopment cost, the Administration intended to waive the payment of land premium by URA to fulfill its commitment to urban renewal.

14. On the need for a new land grant, DS/PL advised that this was essential to ensure that future development of the land would not be unduly affected by previous restrictions in the old grant. Besides, a new grant would allow re-planning of the land. Noting that a new land grant would not be required if LDC could acquire all the undivided shares of the lot, Mr Andrew WONG asked if the Administration would consider waiving the requirement for payment of land premium by LDC under such circumstances. DS/PL advised that as LDC would benefit from the increase in plot ratio of the project area, payment of land premium was necessary. He added that in practice, it was difficult for LDC to acquire the whole lot, particularly where some owners had passed away or there were problematic title cases.

15. On the *power to enter and inspect*, Mr James TO asked how URA could ensure the authenticity of the information provided by affected residents during freezing surveys. Noting that a person who made a false declaration in applying for public housing or in providing information to the Housing Authority when declaring income and assets committed an offence under the Housing Ordinance (Cap. 283) (HO), Mr LEE Wing-tat asked if the Administration would consider making it an offence if a person made a false statement during freezing surveys. Mr Andrew WONG however considered the provisions under HO too harsh. He pointed out that there might be

circumstances under which affected residents might have difficulty in providing accurate information. For example, those with children studying abroad or staying in quarters provided by employers might not know whether they should include their children in the freezing surveys. In reply, DS/PL clarified that the freezing survey was only an exercise to determine the preliminary eligibility of affected tenants for rehousing. Other documentary proof would be required at a later stage to affirm actual eligibility. He nevertheless undertook to consider whether it was necessary to make it an offence for making false declaration during freezing surveys, subject to consultation with the Department of Justice on whether such a measure would contravene the Hong Kong Bill of Rights Ordinance (Cap. 383).

(Post-meeting note: The Administration's response was circulated vide LC Paper No. CB(1) 1364/99-00(07).)

16. On *transitional provisions*, Miss CHAN Yuen-han enquired about the transitional arrangements for staff of LDC. DS/PL advised that the Blue Bill already stipulated that every contract, including employment contract or other agreement with any person, entered into by LDC which was in force immediately before the commencement of the Urban Renewal Authority Ordinance should, as from that date, have effect as if URA was substituted for LDC, and the contract or other agreement might be enforced by or against URA. Miss CHAN however remarked that the provision as drafted was too vague and subject to interpretation. Expressing similar concern, Mr LEE Cheuk-yan considered that in drawing up the transitional arrangements for staff of LDC, reference should be made to similar provisions under the Mass Transit Railway Ordinance (MTRO) which provided that the benefits of employees of the Mass Transit Railway Corporation and their prevailing pay review mechanism would remain in force after privatization. To facilitate a better understanding, the Assistant Legal Adviser 1 was requested to prepare a comparison of the provisions on transitional arrangements for employees under MTRO and the Blue Bill.

(Post-meeting note: The information paper was circulated vide LC Paper No. LS 116/99-00.)

II Any other business

17. Members agreed to hold three additional meetings as follows:

- Saturday, 15 April 2000, at 9:00 am;
- Wednesday, 26 April 2000, at 2:30 pm; and
- Tuesday, 2 May 2000, at 8:30 am.

18. There being no other business, the meeting ended at 6:30 pm.

Legislative Council Secretariat

10 July 2000