

立法會
Legislative Council

LC Paper No. CB(1) 1997/99-00
(These minutes have been seen
by the Administration and
cleared by the Chairman)

Ref : CB1/PL/HG/1

LegCo Panel on Housing

Minutes of meeting
held on Thursday, 4 May 2000, at 8:30 am
in the Chamber of the Legislative Council Building

Members present : Hon LEE Wing-tat (Chairman)
Hon Gary CHENG Kai-nam, JP (Deputy Chairman)
Hon David CHU Yu-lin
Hon HO Sai-chu, SBS, JP
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon NG Leung-sing
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Ronald ARCULLI, JP
Hon CHAN Yuen-han
Hon CHAN Kam-lam
Hon LEUNG Yiu-chung
Dr Hon YEUNG Sum

Members attending : Hon LAU Kong-wah
Hon Andrew CHENG Kar-foo
Hon LAW Chi-kwong, JP

Members absent : Hon Edward HO Sing-tin, SBS, JP
Hon Fred LI Wah-ming, JP
Hon James TO Kun-sun
Hon Andrew WONG Wang-fat, JP
Hon SZETO Wah

Public officers attending : **For item IV**

Territory Development Department

Mr H K WONG, Director of Territory Development

Mr D J CLIMAS, Project Manager/NTE (Acting)

Mr K C NG, Chief Engineer/Tseung Kwan O

Housing Bureau

Mr M L WAN, Principal Assistant Secretary (Project Management)
(Acting)

Ms Ophelia TSANG, Principal Assistant Secretary (2) (Acting)

Housing Department

Mr Y K CHENG, Assistant Director/Applications & Home
Ownership

Mr K S YING, Chief Manager/Management, Sai Kung & Sham
Shui Po

Ms Peggy CHAN, Chief Estate Surveyor/Rental Housing and
Private Sector Participation Scheme

Ms Ferna SHUM, Senior Architect (7)

Civil Engineering Department

Mr W C LEE, Assistant Director, Geotechnical/Mainland (Acting)

Buildings Department

Mr K H HUI, Chief Structural Engineer

Planning and Land Bureau

Mr Geoffrey WOODHEAD, Principal Assistant Secretary

For item V

Housing Bureau

Ms Ophelia TSANG, Principal Assistant Secretary (2) (Acting)

Housing Department

Mr David S C LEE, Project Director/West

Mr N M CHAN, Project Manager/1

For item VI

Housing Bureau

Ms Ophelia TSANG, Principal Assistant Secretary (2) (Acting)

Housing Department

Mr KWOK Shek-kwun, Assistant Director/Management

Mr CHENG Yau-tim, Chief Manager/Management (Support Service)

Mr CHEUK Cheung-tak, Senior Housing Manager/Redevelopment

Attendance by invitation : **For item IV**

Talent Luck Limited

Mr TAM Kwok-wing, Executive Director

Mr SZE Tak-man, Acting Development Manager

Rich Fortress Limited

Mr YU Yiu-chung, Assistant General Manager

For item V

Resident Group of Shek Yam Estate Blocks Four and Five

Miss LEE Kui-hing

Miss POON Mei-lan

Miss FAN Kam-sim

Clerk in attendance : Mrs Mary TANG, Chief Assistant Secretary (1)6

Staff in attendance : Miss Becky YU, Senior Assistant Secretary (1)3

I Confirmation of minutes of previous meetings
(LC Paper No. CB(1) 1262 and 1467/99-00)

The minutes of the meetings held on 17 February and 17 March 2000 were confirmed.

II Information paper issued since last meeting

2. Members noted that no information paper had been issued since last meeting

III Date of the next meeting and items for discussion

3. The next regular meeting would be held on Monday, 5 June 2000, at 4:30 pm. Members agreed that the agenda for the meeting would be decided by the Chairman after consultation with the Deputy Chairman.

(Post-meeting note: The subjects on splitting of tenancy upon redevelopment, revision of Government fees and charges, redevelopment of North Point Estate as well as compensation and clearance arrangements for Cottage Area clearance were subsequently included for discussion at the meeting on 5 June 2000.)

IV Problem of site settlement in housing estates in Tseung Kwan O (LC Paper Nos. LS 125/99-00 and CB(1) 1468/99-00(01))

Causes of unusual settlement in Tseung Kwan O

4. The Chairman recalled that when the subject was last discussed at the joint meeting with the Panel on Planning, Lands and Works on 6 December 1999, members were informed that water inflows into the tunnel of the Strategic Sewage Disposal Scheme (SSDS) from Tseung Kwan O (TKO) to Kwun Tong might be a contributing factor to the unusual settlement in TKO Town Centre where Tong Ming Court (TMC) and Beverly Garden (BG) were located. To his disappointment, the effect of the construction of the SSDS tunnel was left out in the information paper (LC Paper No. CB(1) 1468/99-00(01)). He queried if the Administration was trying to cover up the responsibility of the Drainage Services Department in this respect. To ensure impartiality, the Chairman considered that there was a need for an independent investigation into the causes of unusual settlement in TKO.

5. In response, the Director of Territory Development (DTD) stressed that the Administration had no intention to hide anything from members nor the public. The information paper referred to aimed at addressing members' concern on safety of buildings in TKO Town Centre which was the focus of discussion at the last meeting. According to the preliminary assessment carried out by the Buildings Department (BD), no buildings nor building sites in the affected area were at risk as a result of the unusual settlement. As regards the effect of the construction of SSDS tunnel, DTD advised that this had yet to be confirmed in the context of the investigation into the causes of unusual settlement in TKO by the Territory Development Department (TDD). The final investigation report would be released by end 2000. On the need for an independent investigation, DTD advised that this might not be necessary since apart from the independent consultant, TDD had asked the Civil Engineering Department which had not taken part in any construction projects in TKO to assist in identifying the causes of unusual settlement to ensure impartiality. Consideration would also be given to performing a third-party audit on the findings of the investigation report. Mr LAU Kong-wah cautioned that the Administration might not be able to establish a link between SSDS and the unusual settlement as the tunnel construction works would be completed before the release of the investigation report. DTD remarked

that although the tunnel excavation would complete soon, the lining of the tunnel would continue.

6. Mr Andrew CHENG questioned the rationale behind the delay in release of the investigation report which should have been completed a few months ago. DTD admitted that the Administration had under-estimated the time required for the investigation. This was attributed to the highly variable and complex geological conditions of TKO. To ascertain the causes and mechanisms behind the ground settlement and the magnitude of settlement attributable to each cause, additional boreholes had to be drilled for installation of more instruments and the taking and testing of more soil samples to collect supplementary field data. These supplementary data, together with the existing ones, would assist TDD in understanding the geological situation, identifying the causes of the ground settlement and making predictions of magnitude and timing of further settlement. TDD should be able to obtain and analyse the information and prepare a detailed report in a few months' time.

7. As site investigation would be carried out to ascertain the geological condition of reclaimed land before commencement of construction, Mr LEUNG Yiu-chung did not accept that the Administration should use the complex geology of TKO as an excuse for the delay in release of the investigation report. Expressing similar view, Mr Albert HO remarked that the Administration should have identified some causes of the unusual settlement in TKO before it could conclude that no buildings nor building sites in the affected area were at risk.

8. DTD clarified that the site investigation referred to would not be able to detect problems such as groundwater draw-down at the bedrock level which might contribute to unusual settlement. Other factors such as uneven thickness of marine deposit layer or inadequate compaction of backfill around building foundations, underground building services and construction activities, including basement construction and piling works, which involved de-watering from the ground might also lead to local unusual settlement. TDD had to investigate all factors that might have contributed to the ground settlement in TKO Town Centre. To this end, TDD had drilled 53 deep boreholes in 18 groups up to 80 metres into the ground and installed various ground investigation instruments to measure groundwater levels and ground settlement in different soil levels. The information from these initial boreholes revealed highly variable and complex geology in TKO Town Centre which warranted further investigation before a conclusion on the causes and mechanisms behind the unusual settlement could be made. In view of the prevalence of unusual settlement as evidenced in TKO and Tin Shui Wai (TSW), Mr LEUNG opined that there was a need for the Administration to review the existing system on site investigation. DTD assured members that more detailed site investigations would be carried out for future reclamation projects.

9. Noting that the causes of unusual settlement in TKO Town Centre had yet to be determined, Dr YEUNG Sum and Mr Albert HO considered it imprudent for the Administration to arrive at the conclusion that the buildings and building sites in TKO Town Centre were safe. DTD advised that the conclusion was drawn on the basis that the rate of ground settlement in most of the affected area had been much reduced and appeared to be reverting back to normal settlement rates. Furthermore, the ground water draw-down in the bedrock had stabilized and the ground water level at some locations had started to rise. While acknowledging that about 80% of the TKO Town Centre ground settlement monitoring points had recorded ground settlement of only 0 to 2 millimetres (mm), the Chairman remained concerned about the situation of the remaining 20% monitoring points. Quoting BG as an example, DTD advised that of the 20 ground investigation instruments installed at the estate, only five (20%) recorded settlement exceeding 20 mm. Readings of the remaining instruments were less than 15 mm. The greater settlement recorded along the southern boundary of BG might be attributed to the construction works in a nearby development site where piling, basement excavation and ground water pumping were in progress.

10. Mr CHAN Kam-lam asked if precautionary measures had been taken to minimize settlement in TKO at the outset. DTD advised that while it would be more desirable to allow sufficient time for settlement to cease before commencement of construction, it was not feasible to leave reclaimed land vacant given the great demand on supply of land for housing. With the advancement in reclamation technology, measures such as installation of vertical drains in the marine deposit and formation of surcharge mounds had been used to speed up settlement in areas designated for roads and superstructures. However, such measures were not applicable to other open areas in TKO in view of the substantial time and cost involved. Mr CHAN did not agree that the Administration should put a price on public interest and building safety. He added that as the uneven land supply over the past years had put much pressure in housing production and in turn affected building quality, the Administration should learn from the lesson and ensure steady land supply in future to prevent recurrence of similar problems.

Tong Ming Court

11. The Senior Architect (7) advised that the Housing Department (HD) had installed 15 surface settlement markers at TMC. The cumulative ground settlements up to April 2000 since the earliest reading commenced in May 1999 ranged from 9 to 79 mm. To closely monitor the unusual settlement, HD had installed another 28 building check points at TMC. According to the survey up to April 2000, there was no evidence of building settlement in the development.

12. Mr NG Leung-sing however noted that settlement had been affecting some pavements, roads and external areas of TMC. The Assistant Director/Applications & Home Ownership (AD/A&HO) advised that as pavements and roads were not built on piles designed to extend to bedrock, they were more likely to be affected by settlement. DTD nevertheless assured members that the settlement would not affect the traffic nor underground utility pipes which were designed to accommodate the effect of settlement. The utility companies had also confirmed that the settlement had little risk to their installations.

Beverly Garden

13. The Chief Structural Engineer (CSE) advised that following the report of unusual settlement in TKO in September 1999, BD had checked the foundation design of BG and confirmed that the registered structural engineer had taken into account the effects of the downward force from settlement of ground soil in designing the foundations of buildings. The bored piles used in the construction of foundations for all ten blocks in BG were sunk to reach the underground rock layer which could withstand over 500 tons of force per square metre so that the buildings would not be significantly affected by the said downward force and the buildings were safe. BD had also arranged with TDD to provide a survey check point at each of the ten blocks at BG since December 1999. No settlement had been recorded so far. To further alleviate residents' concern, consideration was being given to produce readings at all four corners of each of the ten blocks. As regards underground utilities, CSE advised that the design of these utilities was able to take up relative movement of 300 to 800 mm. The cumulative ground settlement recorded since September 1998 was only 200 mm which was well within the limits. BD would step up surveillance effort if the reading approached 300 mm.

14. Mr LAU Kong-wah expressed concern about DTD's remark that settlement would continue over a period of 20 years as this was at variance with the common perception that settlement would subside within a period of seven years. He cautioned that the provision of the one-year Defects Liability Period (DLP) together with the five-year scheduled DLP for BG would not be sufficient to cover the latent defects resulting from unusual settlement over the 20-year period. Given that the Administration had agreed to provide a 20-year structural guarantee for Home Ownership Scheme (HOS) projects in TSW on account of the complex geological conditions of the area, Mr LAU considered that the same arrangement should apply to BG as TDD had confirmed that the geology of TKO was also very complex. In response, DTD considered it inappropriate to link structural problems with settlement. He reiterated that ground settlement was a normal phenomenon in newly reclaimed land. It was expected to continue for many years but at an ever decreasing rate after completion of reclamation. The Assistant Director/Applications & Home Ownership (AD/A&HO) added that in the consultative document "Quality Housing: Partnering for Change" released by the Housing Authority (HA) in January 2000, it was proposed that HA should provide a 10-year structural safety guarantee for all new and existing HOS developments from the date of completion. The proposed guarantee would also apply to BG after it had been approved by the Home Ownership Committee of HA. Mr LAU was not convinced of the Administration's explanation. He remained of the view as the unusual settlement in both TSW and TKO were attributed to their complex geological conditions, the same 20-year structural guarantee for HOS projects in TSW should similarly apply to BG.

15. Noting that the unusual settlement had affected the property prices of BG, and that the buy-back period for BG would expire before the release of the investigation report on settlement in TKO, Mr Andrew CHENG Kar-foo and Mr LAU Kong-wah considered that HA should extend the buy-back period so that BG owners could decide whether or not to resell their flats to HA after confirmation of the causes of settlement in TKO. AD/A&HO advised that the two-year buy-back provision was part of the resale restrictions imposed under the Housing Ordinance (HO) on HOS/PSPS flat owners to curb speculation. It was not a price guarantee for owners or a buy-back obligation of HA. Following the recent

amendment to HO, the buy-back period for HOS/PSPS flats had been reduced from three to two years. The change aimed at encouraging more HOS/PSPS flats to enter the secondary market for sale to sitting tenants with a view to releasing more public rental housing flats for re-allocation to those in genuine need. During the two-year period, owners who wished to sell their flats had to first offer the sale to HA at original purchase prices. When HA declined the offer, owners might sell their flats in the open market after payment of a premium. Any changes to the new buy-back conditions would require legislative amendment. While acknowledging that it might not be appropriate to amend HO for the sake of an individual case as this would affect other HOS/PSPS projects, Mr Albert HO opined that HA could use a contract to extend the buy-back period for BG owners. AD/A&HO replied that advice from the Department of Justice had to be sought in this respect.

16. On rectification works, the Chief Estate Surveyor/Rental Housing and Private Sector Participation Scheme (CES/RH&PSPS) advised that BG was a PSPS project and the developer concerned was required under the Conditions of Sale to make good defects which might occur during the one-year DLP and scheduled defects for a period of five years upon the expiry of DLP. The Chairman asked if owners would be required to repair the latent defects resulting from unusual settlement after the expiry of DLP and scheduled DLP. In reply, CES/RH&PSPS considered it too premature to reach a conclusion now as the developer had employed their own consultant to carry out regular settlement surveys for BG. According to the estate manager of BG, rectification of defects caused by ground settlement such as subsided paving blocks, cracked drainage piles, cracks on fence walls, pavement, carpark entrance, road paving and manholes had been completed. She assured members that HD would ensure that the developer would make good scheduled defects during the scheduled DLP. However, damages which were not within the coverage of scheduled defects would be the responsibility of owners.

17. To facilitate a better understanding on the allocation of risk between developers and owners in cases involving unusual settlement, the Assistant Legal Adviser 1 (ALA 1) briefed members on her paper entitled "Site settlement in housing estates in TKO" circulated vide LC Paper No. LS 125/99-00. She said that it was possible for those who had been affected by settlement to claim damages in tort for negligence if it could be established that a person owed a duty of care towards them and such person was in breach of the duty. They might also claim against the Government if it could be proved that there were contributing factors other than reclamation that attributed to unusual settlement which the Government was liable for. However, it might be argued that the developer had the obligation to make good defects arising from unusual settlement during the one-year DLP and the five-year scheduled DLP since the Specific Provision under the Conditions of Sale was only restricted to "residual settlement" as a result of newly reclaimed land and would not apply to unusual settlement.

Way forward

18. As a consolidated view of the Panel, Mr CHAN Kam-lam, Mr LAU Kong-wah and Mr Andrew CHENG Kar-foo moved the following motion:

“that the LegCo Panel on Housing urges the Administration to:

- provide a 20-year structural guarantee for HOS/PSPS developments in TKO and extend the DLP of these developments to 10 years;
- extend the buy-back period of HOS/PSPS developments in TKO from the existing two years to three years;
- provide an interim report on the investigation of the site settlement problem in TKO by 31 May 2000; and
- review and improve the existing policy and methodology of reclamation to prevent recurrence of the problem of site settlement.”

The motion was unanimously passed by all members present at the meeting. The Chairman instructed that the motion be conveyed to the Administration.

(Post-meeting note: A letter on the motion was issued to the Administration on 5 May 2000. The Administration's response to the motion was circulated vide LC Paper Nos. CB(1) 1724 and 1737/99-00.)

19. Meanwhile, the Administration was requested to provide:

- the latest monitoring results on the settlement situation at the ground settlement monitoring points at TKO Town Centre and thereafter provide bimonthly reports on the settlement at these monitoring points; and
- the ground settlement report on BG, TMC, Sheung Tak Estate, Kwong Ming Court, Po Ming Court and other affected housing estates.

V Shek Yam Estate Redevelopment Project Phase 2

Meeting with the Resident Group of Shek Yam Estate Blocks Four and Five
(LC Paper No. CB(1) 1468/99-00(02) and (03))

20. At the invitation of the Chairman, Miss LEE Kui-hing highlighted the salient points in the submission from the Resident Group of Shek Yam Estate Blocks Four and Five. She considered that HD should:

- commission an independent consultant engineer to inspect the concrete, cement and steel reinforcement used in the Shek Yam Estate Redevelopment Project Phase 2 to ensure the structural safety of the buildings and to make public the inspection report;

- carry out rectification works on defects, such as falling tiles in kitchen and bathroom, leakage from windows and doors, seepage in bathroom and rusting of water pipes, resulting from the use of sub-standard building materials for an indefinite period; and
- provide a 30-year structural guarantee for problems resulting from the use of sub-standard building materials if the buildings were to be sold under the Tenants Purchase Scheme in future.

Meeting with the Administration

(LC Paper No. CB(1) 1468/99-00(04))

21. On independent inspection, the Project Director/West (PD/W) advised that the Consultant Engineer currently responsible for reviewing all the testing and inspection records of concrete and reinforcement of the redevelopment project at Shek Yam Estate Phase 2 was in fact an outside consultant independent of HD. Moreover, the said testings were carried out by independent material test laboratories to ensure impartiality. Noting that two out of the 16 persons arrested by the Independent Commission Against Corruption (ICAC) were employees of the Consultant, the Chairman expressed doubt on the independence of the Consultant. He agreed with the Resident Group that HD should institute a third-party audit on the structural safety of the buildings to alleviate tenants' concern. The Project Manager/1 (PM/1) said that he was not in a position to comment on the arrest as the case was still under investigation by ICAC. He however pointed out that the Consultant Engineer, after reviewing all the previous testing and inspection records, had confirmed that no irregularities were observed that would affect the structural safety of the buildings. To further ensure the quality and structural safety of these buildings, HD had also appointed an in-house independent investigation team to assess and verify the quality and structural integrity of the works.

22. On rectification works, Mr LEE Cheuk-yan considered the requirement for tenants to report defects to HD within 24 hours after occupation unreasonable. He pointed out that latent defects such as seepage could only be detected after a certain period of time. Expressing similar concern, the Chairman questioned the rationale for imposing a 24-hour time limit on tenants, particularly when the Contractor was required under the Conditions of Contract to make good defects during the maintenance period. Mr LEUNG Yiu-chung echoed that tenants might not know the difference between normal and latent defects. PM/1 replied that it was only an administrative arrangement to require tenants to list out those readily observable defects found in their flats upon intake for necessary follow-up by the Contractor. Latent defects as referred to by Mr LEE could be reported at a later stage.

23. Mr LEE expressed doubt that the alleged sub-standard works were of a minor nature as claimed by the Administration. PM/1 advised that non-complying works were discovered earlier during routine checking by HD before ICAC's operation. These included the use of sub-standard claddings, prohibited use of semi-dry cement sand floor screeding, sub-standard concreting, formwork and steel reinforcement fixing. Some of these defects had been rectified during the course of construction. Delay in other rectification works such as replacement of sub-standard claddings was due to the time required for importing the required materials from overseas countries. He assured members that HD would follow its current policy to require the Contractor to make good

Admin

all defects satisfactorily before final acceptance of the buildings. As to whether HD would rectify the defects resulting from sub-standard works, PD/W advised that as Sham Yam Estate Phase 2 was a rental estate, HD would take up the maintenance responsibility after the expiry of the maintenance period as in the case of other estates. At members' request, the Administration undertook to provide a list of the types of repairs that would be undertaken by HD.

24. As regards the provision of a 30-year guarantee for Shek Yam Estate, PD/W considered it not feasible since all buildings, even under normal wear and tear, would require maintenance after a certain period of time.

25. Miss LEE Kui-hing remarked that according to past experience, HD failed to perform its monitoring role despite the presence of a well established inspection procedures. She therefore considered it necessary for HD to provide an undertaking that it would rectify all defects resulting from sub-standard building works. Before concluding, the Administration was requested to respond to the requests of the Resident Group in paragraph 20.

(Post-meeting note: The Administration's response was circulated vide LC Paper No. CB(1)1759/99-00.)

VI Policy on splitting of tenancy upon redevelopment
(LC Paper No. CB(1) 1468/99-00(05))

26. Owing to time constraint, members agreed that discussion on the subject be deferred to the next regular meeting on 5 June 2000.

VII Any other business

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

Legislative Council Secretariat
14 August 2000