

立法會
Legislative Council

LC Paper No. CB(1) 1467/99-00
(These minutes have been seen
by the Administration)

Ref : CB1/PL/HG/1

LegCo Panel on Housing

Minutes of meeting
held on Friday, 17 March 2000, at 10:45 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 Ho Sai-chu, SBS, JP
Hon Edward HO Sing-tin, SBS, JP
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon Fred LI Wah-ming, JP
Hon NG Leung-sing
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Ronald ARCULLI, JP
Hon James TO Kun-sun
Hon CHAN Yuen-han
Hon LEUNG Yiu-chung
Hon Andrew WONG Wang-fat, JP

Members absent : Hon David CHU Yu-lin
Hon CHAN Kam-lam
Dr Hon YEUNG Sum
Hon SZETO Wah

Public officers : **For item IV**
attending

Housing Bureau

Miss Sandy CHAN, Principal Assistant Secretary (2)

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Housing Department

Mr Tony MILLER, Director of Housing

Mr Marco WU, Deputy Director/Management

Mr T C YUEN, Deputy Director/Works (Acting)

Mr Simon LEE, Assistant Director/Legal Advice

Mr S C LAM, Chief Structural Engineer

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

Staff in attendance : Mr Arthur CHEUNG, Assistant Legal Adviser 5
Miss Becky YU, Senior Assistant Secretary (1)3

I Confirmation of minutes of previous meeting
(LC Paper Nos. CB(1) 1113 and 1148/99-00)

The minutes of the joint meeting with the Panel on Planning, Lands and Works held on 6 December 1999 and the regular meeting on 3 January 2000 were confirmed.

II Information paper issued since last meeting

2. Members noted that the following information papers had been issued since the last meeting:

- LC Paper No. CB(1) 1142/99-00 - Submission from the Hong Kong People's Council on Housing Policy regarding illegal rooftop structures; and
- LC Paper No. CB(1) 1164/99-00 - Submission from the Society for Community Organization regarding problems arising from shared accommodation in public housing.

III Date of next meeting and items for discussion

3. In order to allow sufficient time to discuss the progress report on investigation of foundations in Housing Authority projects under construction, the Chairman suggested and members agreed that discussion on the provision of one-bedroom flats for two-person elderly households upon redevelopment be deferred to the next regular meeting to be held on Monday, 3 April 2000, at 4:30 pm. Members also agreed to include the subjects of “Problems arising from shared accommodation in public rental housing” and “Redevelopment of North Point Estate” in the agenda for the next meeting.

IV Progress report on investigation of foundations in Housing Authority projects under construction

Report of the Investigation Panel on Accountability in the Case of Tin Chung Court, Tin Shui Wai

Confidentiality of the Report

4. As the Report tabled at the meeting was submitted to members in confidence, the Chairman invited the Assistant Legal Adviser 5 (ALA5) to explain the rules which members should observe when examining the Report. ALA 5 advised that while Members were immune from civil or criminal proceedings for words spoken before, or written in a report to, the Council or a committee by virtue of the Legislative Council (Powers and Privileges) (P&P) Ordinance (Cap. 382), they should exercise caution in making any comment or any reference to any matter that might prejudice the legal proceedings that were likely to take place.

5. Mr Ronald ARCULLI questioned the need for confidentiality given that the parties involved in the case of Tin Chung Court (TCC) would be given a copy of the Report. The Assistant Director/Legal Advice (AD/LA) responded that as the findings and conclusions on areas of accountability were contentious and litigious, he was of the view that publication of such information would be prejudicial to parties in subsequent legal actions, and that only the recommendations in the Report should be published. He also shared the view of ALA 5 that comment on the contractual and legal liabilities of parties should not be made in public lest this would have an influence on any arbitrator appointed to the case. Having regard to the wider impact of the TCC case on the construction industry as a whole, Mr ARCULLI agreed to the approach adopted by the Investigation Panel. Mr Albert HO took a different view and opined that the judgement of arbitrators would not be affected by public opinions. In reply, AD/LA asked members to consider the likely impact on the reputation of the parties concerned if their individual accountability and legal liability were openly discussed before the Council. Mr James TO however pointed out that the names of the parties involved were included as part of the recommendations in the Report.

6. Ms CHAN Yuen-han asked if members could comment on the areas of accountability of the Housing Authority (HA) and the Housing Department (HD). As HA

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would be involved in subsequent legal actions, AD/LA expressed similar concern that members' comments on the accountability of HA/HD might affect its position in future legal proceedings. On the responsibility of members under such circumstances, ALA5 reiterated that members were immune from any civil or criminal proceedings for words spoken before a committee by virtue of the P&P Ordinance. However, any comments made outside the meeting would fall outside the remit of the Ordinance.

7. Mr NG Leung-sing opined that he was not optimistic that the Administration could protect the confidentiality of the Report, particularly when the case was brought before Court. AD/LA agreed with Mr NG's observation and would appreciate it if members could return the Report to HD after the meeting. As members would need time to study the Report in detail, the Chairman did not agree to AD/LA's proposal.

8. At the invitation of the Chairman, the Director of Housing (D of H) briefed members on the recommendations in the Report. He said that HD had accepted these recommendations without reservation. Actions would be taken in accordance with the findings and recommendations in the Report to prevent the recurrence of similar problems in other projects of HA.

Efficacy of the investigation conducted by the Investigation Panel

9. Given that the investigation into the TCC case was a private investigation instituted by HA, and that the Investigation Panel had no power to insist upon the attendance of nor the production of documents by parties concerned at hearings, Mr James TO questioned the efficacy of the investigation. Mr Edward HO also queried how the Panel could establish the areas of responsibilities of the officers/parties involved as required under its term of reference if it had not attempted to review in any detail the contractual positions of the parties involved. AD/LA said that he was not in a position to respond to members' questions on behalf of the Investigation Panel. He however stressed that while the investigation was a private investigation instituted by HA, the Panel, comprising three HA members, one HA Building Committee member and one independent member, operated independently of HA which had not made any attempt to influence the decisions of the Panel. The conclusions in the Report were arrived at by the Panel to the best of its ability based on the available information. As the Panel was not a judicial body, it had not attempted to usurp the position of an arbitrator or judge by making rulings on the legal position between the parties.

10. Given the extent of the problem at TCC, Mr James TO opined that a private investigation was insufficient to establish the causes of the problem and the responsibilities of parties involved. He considered that the Chief Executive should appoint a statutory body under the Commissions of Inquiry Ordinance (Cap. 86) to probe into the TCC incident as was the case with the New Airport. The Principal Assistant Secretary for Housing (2) (PAS for H (2)) said that the Administration fully shared members' concerns over the recent piling incidents. She assured members that the Administration would study the Report carefully in deciding on the way forward. As to when a decision could be made, PAS for H (2) advised that the Administration had just received the Report and would need time to study it. Meanwhile, as HA and D of H had already accepted the

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findings and recommendations in the Report, the Administration, including relevant bureaux and departments, would render every assistance to them to follow up on these findings and recommendations, with a view to taking appropriate action against parties concerned, and enhancing public housing quality in the longer term. Mr TO was not convinced of the Administration's response. He held the view that the Legislative Council should set up a select committee to probe into the TCC case if the Administration declined to establish a commission of inquiry as suggested.

Recommendations of the Report

11. Mr LEE Cheuk-yan did not agree with the Investigation Panel's recommendation that D of H should review the performance of individual officers concerned and take disciplinary actions as necessary. He was afraid that HD's management might try to evade responsibility by putting all the blame on the frontline staff. D of H advised that this would not be the case. As the Director of Housing, he took full responsibility for the operation of HD. Whenever problems arose, he would institute investigation to identify the causes of the problems, liaise with relevant authorities, such as the Independent Commission Against Corruption if corrupt practice was suspected, recommend to HA the remedial measures to prevent recurrence of similar problems and take disciplinary actions against defaulting staff.

12. Members remained unconvinced that HD should investigate its own staff. D of H assured members that HD would consult the Civil Service Bureau (CSB) in this regard. While acknowledging that CSB was empowered to investigate HD staff, the Chairman pointed out that it could not investigate members of HA who also had a role in the TCC case. He therefore considered that an independent investigation should be instituted to ensure impartiality. Given that the lack of an effective audit system within HA was a contributing factor to the problems at TCC, Mr Albert HO agreed that a separate investigation into the areas of responsibility and accountability of HA was necessary. Mr NG Leung-sing took a different view. He remarked that as the Investigation Panel had recommended HA to take legal action against the consultant and the piling contractor of the TCC project, the responsibility and accountability of relevant parties, including HA and HD, would be revealed during the course of proceedings. Therefore, a separate investigation was not necessary. The Chairman however pointed out that the Court would only deal with contractual liabilities rather than accountability. Mr James TO also cautioned that the question of accountability would be neglected if the case was settled out of court. In reply, the Deputy Director/Works (Acting) (DD/W (Ag)) remarked that HD had implemented a consultant audit system in 1999, under which audit check on performance of consultants at critical stages would be conducted by HD staff to ensure quality. TCC was however not included under the system since it was constructed before 1999. D of H added that he was not in a position to comment on issues relating to HA.

13. Referring to the findings of the Investigation Panel that the problems at TCC were partly attributed to system failures within HD, Mr LEE Cheuk-yan enquired about the causes of such failures. D of H explained that the system failures referred to problems such as confusion of roles and responsibilities, multi-layered subcontracting and

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inadequate project supervision etc. In fact, these problems had been included in the strategic consultative document “Quality Housing: Partnering for Change” (Consultative Document) released by HA for a two-month public consultation in January 2000. Pending the results of the public consultation, a number of measures, such as reviewing contractual arrangements with contractors to achieve equitable risk-sharing, would be proposed to HA with a view to improving building quality.

14. Mr LEUNG Yiu-chung and Mr Fred LI agreed with the Investigation Panel’s recommendation that HD should not only monitor the performance of consultants in terms of cost and time but also their performance on technical and quality aspects. They enquired about HD’s stance in this respect. D of H explained the role of HD in managing its consultants. He said that as the resources of HD were limited, for example, it had the capacity to design and manage housing projects amounting approximately to an annual production of 35,000 flats, it would have to contract out to private architect consultant firms the management of any works in excess of its capacity. These consultants were employed to carry out duties in the same way as HD’s own in-house project managers. He nevertheless agreed with the comment to step up monitoring of consultants as well as sub-consultants and accepted the recommendations put forward by the Panel.

15. Referring to the Investigation Panel’s recommendation that pre-stressed pre-cast concrete (PPC) piles should not be used by HA unless under exceptional circumstances, Mr LEE Cheuk-yan asked if the use of PPC piles was the cause of the piling problem at TCC. He also pointed out that the Panel’s recommendation was consistent with the foundation advice report on Tin Shui Wai (TSW) Area 16 issued in 1989 which concluded that the use of PPC piles was not suitable in the area. D of H clarified that the consulting engineer who prepared the report in 1989 was the same consultant for TCC who confirmed in his subsequent foundation reports in March 1991 and February 1996 that the use of PPC piles was a viable option. The Chief Structural Engineer (CSE) explained that the use of driven piles was recommended by the consultant taking into account the complex geological conditions in the area of TSW. PPC piles, which remained acceptable to the Building Authority, were identified as a feasible option in addition to steel H-piles. However, as PPC piles might be damaged during hard driving, pre-boring was required if PPC piles were to be founded on depth beneath the hard pans. As to whether HD had engaged a third party to verify the findings of the consultant reports, CSE advised that an audit would only be instituted in the event of irregularities. To facilitate a better understanding, the Administration was requested to provide the various foundation reports referred to for members’ reference.

(Post-meeting note: Four reports were circulated vide LC Paper No. CB(1) 1208/99-00 (01), (02), (03) and (04) on 23 March 2000.)

Proposed 20-year structural guarantee

16. Mr Albert HO sought elaboration on the proposed 20-year structural guarantee for TSW Home Ownership Scheme (HOS) projects. The Deputy Director/Management (DD/M) explained that it was proposed in the Consultative Document that HA should provide a 10-year structural guarantee for all new and existing HOS developments from

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the date of completion. In view of the complex geological conditions in the area of TSW, consideration was being given to extending the proposed structural guarantee from ten to 20 years for all existing and new TSW HOS projects from the date of completion. Under the proposal, HA would be responsible for all structural repairs to any or all of the structural components deemed necessary to uphold the structural stability and integrity of the building as a whole structure within the guarantee period of 20 years. D of H added that the proposed guarantee would give a firm quality assurance to customers and would prevent unnecessary disputes between HA and HOS owners on structural issues. Mr HO considered that HA should also compensate the owners affected by remedial works. At members' request, the Administration undertook to provide details of the proposed 20-year structural guarantee.

(Post-meeting note: The relevant information paper was circulated vide LC Paper No. CB(1) 1208/99-00 (05) on 23 March 2000.)

17. Mr HO expressed concern that uneven settlement at TCC would affect the structural life span of the buildings. CSE clarified that buildings supported by pile foundations would normally have a certain degree of uneven settlement which, however, should not exceed the amount that could be tolerated by the superstructure. For excessive uneven settlement, CSE advised that this would normally take place within one year after completion of the roof and before occupation of the building. Remedial works would be carried out on the buildings at TCC and their structural life span would not be affected.

18. Given that the TCC incident had undermined public confidence in HOS flats, Mr HO urged that HA should allow all TCC purchasers to rescind from Agreement for Sale and Purchase. DD/M assured members that HA would ensure the safety of the buildings before these were handed over to purchasers. To this end, a renowned international foundation expert had been invited to review the adequacy of the foundations of the 105 HA projects under construction.

The way forward

19. Mr Ronald ARCULLI considered that the TCC incident was only the tip of an iceberg. He asked how HA/HD would propose to resolve the problem of building quality. D of H affirmed that HD would continue to be open and transparent in dealing with any problems discovered. In addition to the recommendations of the Investigation Panel, HD would also take into account the results of the public consultation on the Consultative Document to refine the proposals and draw up concrete plans, covering targets and timing, for implementation of both short-term and long-term initiatives for enhancing building quality of public housing. Mr Gary CHENG however pointed out that the focus of the Consultative Document was to improve the systems of HA/HD without too much emphasis on how to regain public confidence in HOS flats. DD/W (Ag) advised that actions to improve the system would be the right step forward, and that quality reform would require the participation of every party involved, including the construction industry and training authorities.

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Assessment report on adequacy of foundations for Housing Authority projects under construction

20. Mr Albert HO asked how many of the 364 housing blocks in the 105 HA projects under construction had experienced uneven settlement which required remedial works. He also enquired whether the repair works would affect the structural life span of the buildings. CSE advised that currently all of the 364 blocks under construction had no structural safety concern caused by uneven settlement of their foundations. Nevertheless, the consultants had recommended close settlement monitoring for the 143 blocks which were still under construction as a precautionary measure. To this end, independent consultants would be engaged to carry out close monitoring of the 143 blocks as recommended until the occupation of the blocks. HD would also increase the bimonthly inspection frequency to closely monitor the performance of foundations. Ms CHAN Yuen-han remarked that HA should also take into account the recommendations put forward by the Investigation Panel in drawing up the monitoring programme.

21. Mr LEE Cheuk-yan noted with concern that preventive works had been proposed for a number of blocks in TSW. He asked if the prevalence of settlement problem in TSW was attributed to the use of PPC piles. CSE said that although consideration was being given to discontinuing the use of PPC piles in future HA projects taking into account views of relevant parties, he stressed that these piles were viable under prescribed conditions.

22. As to whether shortened piles were discovered in any of the 364 blocks, CSE advised that given the enormous number of piles involved, the consultants had taken a practical and rational approach and had only assessed the adequacy of the foundations of these blocks. The principal objective of the foundation assessment was to ensure structural safety of the buildings.

23. Owing to time constraint, members agreed to continue discussion of the progress report on investigation of foundations in HA projects under construction at the special meeting scheduled for Monday, 20 March 2000, at 4:30 pm.

V Any other business

24. There being no other business, the meeting ended at 1:00 pm.