

立法會
Legislative Council

LC Paper No. CB(1) 1870/99-00
(These minutes have been seen
by the Administration)

Ref : CB1/PL/HG/1

LegCo Panel on Housing

Minutes of meeting
held on Monday, 20 March 2000, at 4:30 pm
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 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
Dr Hon YEUNG Sum
Hon SZETO Wah
- Members attending** : Ir Dr Hon Raymond HO Chung-tai, JP
Hon LAU Kong-wah
- Members absent** : Hon CHAN Kam-lam
Hon Andrew WONG Wang-fat, JP
- Public officers attending** : **Housing Bureau**
Ms Elaine CHUNG, Deputy Secretary for Housing (1)

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Miss Sandy CHAN, Principal Assistant Secretary (2)

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 Progress report on investigation of foundations in Housing Authority projects under construction
(LC Paper No. CB(1) 1179/99-00(01))

The Chairman advised that the current meeting was a continuation of the last meeting on 17 March 2000 to discuss the various outstanding issues relating to the progress report on investigation of foundations in Housing Authority (HA) projects under construction.

2. As the Report of the Investigation Panel on Accountability in the Case of Tin Chung Court, Tin Shui Wai (LC Paper No. CB(1) 1179/99-00) was submitted to members in confidence, the Chairman invited the Assistant Legal Adviser 5 (ALA 5) to brief members, particularly those who did not attend the last meeting, on the rules which members should observe in 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) 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. Members should also note that any comments made outside the meeting would fall outside the remit of the Ordinance.

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3. Before commencing discussion, the Director of Housing (D of H) took the opportunity to respond to some of the points raised by members at the meeting on 17 March 2000. On the allegation that the foundation advice report on Tin Shui Wai (TSW) Area 16 Phase 1 issued in January 1989 had concluded that the use of pre-stressed pre-cast concrete (PPC) piles was not suitable for the area in TSW, D of H clarified that apart from the report referred to, the same consultant had prepared two other foundation reports in March 1991 and February 1996 on TSW Area 16 Phase 1 and TSW Area 31 Phase 1 respectively. All these reports confirmed that PPC piles were a feasible foundation option. This was consistent with the findings of the Investigation Panel that PPC piles were viable under specified conditions. Besides, PPC piles had been used in other public housing projects in TSW, including Tin Yiu Estate. To facilitate discussion, the Administration tabled for members' reference the three reports referred to, together with the final foundation advice report on TSW Area 31 Phase 1 prepared by a separate consultant.

(Post-meeting note: The four reports were circulated vide LC Paper Nos. CB(1) 1208/99-00 (01), (02), (03) and (04) on 23 March 2000.)

4. On the concern that the Investigation Panel would tend to protect the management of the Housing Department (HD) by putting all the blame on the frontline staff, D of H reiterated that the Investigation Panel, comprising three HA members, one HA Building Committee (BC) member and one independent member, operated independently of HA and no attempt had been made by HA 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.

5. On the accountability of HD, D of H said that although the Investigation Panel had recommended that he should review the performance of individual officers concerned and consider taking disciplinary actions as necessary, he was prepared to ask the Civil Service Bureau (CSB) to institute a third-party investigation on the accountability of individual officers, including himself, under the Civil Service Regulations (CSR) to ensure impartiality. Defaulting officers would be penalized regardless of their ranks. As regards system failures within HD, D of H remarked that apart from the strategic consultative document on "Quality Housing: Partnering for Change" (Consultative Document), a review of the systems of HD was also underway. Members would be informed of the outcome of the two exercises in due course.

6. On the uneven settlement in Tin Fu Court (TFC), D of H said that according to the assessment report on the adequacy of foundations for HA projects under construction, currently all the 364 housing blocks in 105 projects under construction had no structural safety concern caused by their foundations. The consultants however considered that preventive works might be desirable for Blocks 2 and 11 of TFC to ensure satisfactory performance of their foundations, depending on the results of further settlement monitoring. A decision would be made within the next three months. He assured members that HA would ensure the safety of the buildings before they were handed over to purchasers.

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7. In conclusion, D of H remarked that HA was determined to improve its system and service as well as foster a cultural change within the construction industry through various reforms. To this end, HA would remain open and transparent and would welcome any comments from both members and the public. However, disclosure of information which was contentious and litigious might not be appropriate at the present stage lest this would prejudice the legal proceedings that were likely to take place or affect the investigations being conducted by the Independent Commission Against Corruption (ICAC).

Use of pre-stressed pre-cast concrete piles in the area of Tin Shui Wai

8. While acknowledging that the various foundation reports had confirmed that the use of PPC piles was a feasible foundation option, members noted that the consultants concerned had cautioned about the consequence of foundation settlement if some of the PPC piles were founded on the “hard pans”. To overcome the problem, extensive pre-boring was required to install the PPC piles to a satisfactory founding stratum. This would not only put heavy demand on the use of pre-boring machines which were not commonly available but also prolong the time for foundation construction. Mr LEE Cheuk-yan also pointed out that the Investigation Report had confirmed that the decision to allow the use of PPC piles in Tin Chung Court (TCC) was ill-advised. Having regard to the technical difficulties involved in the installation of PPC piles, Mr LEUNG Yiu-chung asked whether HD had considered using other types of piles in TSW.

9. In response, D of H considered it inappropriate to comment on the findings of the Investigation Report which had been accepted by HA without reservation. He however pointed out that in considering the various types of piles that might be used for foundations, site investigations would be carried out to ascertain the geological condition of the site. In the case of TSW, as the site investigations revealed that extensive “hard pans” were present in the area, the consultants indicated a preference for steel H-piles on account of their capability of sustaining high driving stress and overcoming obstructions. Nevertheless, none of the consultants had categorically stated that it would be unwise to use PPC piles. The Deputy Director/Works (Acting) (DD/W (Ag)) added that while 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. By way of illustration, the foundations of many public rental housing estates in TSW, including Tin Yiu Estate, were built using PPC piles. Besides, the final foundation report on TSW Area 16 Phase 1 issued in March 1991 had confirmed that the as-built pile foundations were found to be adequate and meeting the basic design functions.

10. Noting the foundation report issued in March 1991 had pointed out the need to monitor the settlements of the foundations during and after the construction of the superstructure due to the lack of pile foundation performance data, particularly for high-rise buildings in the area, Mr Edward HO asked if HD had re-considered the propriety of using PPC piles in the light of the findings. The Chief Structural Engineer (CSE) clarified that the advice given by the consultant was not only applicable to buildings in

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TSW but to all buildings using PPC piles for foundations. He affirmed that HD had been monitoring the adequacy of foundations for projects using PPC piles. Mr HO enquired whether PPC piles were used on account of the low construction cost. CSE explained that apart from construction cost, HD would take into consideration other factors, such as the feasibility of the piling method, the technical difficulties and the construction time involved, in assessing piling tenders.

11. As to whether piling contractors were given the choice between steel H-piles and PPC piles, D of H advised that under the prevailing tendering system, foundation contracts were intended to be let on a design-and-construct basis. In other words, tenderers were given the discretion to decide on the type of piling method to be used taking into account the pre-tender stage site investigation results. Apart from the foundation design requirements, HD would also specify in the tender document the need for due care and diligence for piling works. Tenders would be assessed by HD in-house professionals or consultants as appropriate before submission to BC for consideration and approval. In the case of TCC, DD/W (Ag) remarked that all the three lowest tenders were considered technically in order by the consultants concerned.

12. Miss CHAN Yuen-han considered that HD had not performed its monitoring role, particularly after the consultants had pointed out the deficiencies of PPC piles. Expressing similar concern, Mr Fred LI questioned why HD chose to ignore the advice given by the consultants and insisted on using PPC piles. D of H advised that the problem referred to by Miss CHAN was a matter which had to be looked into. The issue of monitoring role of HD had been included in the Consultative Document. Meanwhile, consideration was being given to separating the design and construction functions of all piling contracts. Under the proposed new arrangement, engineers would be engaged to design the foundations suitable for individual sites before the piling contracts were put up for tender. Tenderers would be allowed to accept the design or propose a viable alternative. This would ensure that the initial foundation design was independent of the piling contractor. D of H added that he was not in a position to respond to Mr LI's question since BC was the authority through which a decision on the award of contracts was made. As a member of BC, the Chairman clarified that BC took the decision on the basis of recommendation made by HD. It would not discuss the suitability of a particular type of piles during the course of examination of tenders.

Accountability of the Housing Department

13. Dr YEUNG Sum enquired about the time-table within which CSB would institute a third-party investigation on HD staff involved in the TCC case. While acknowledging members' concern on the suitability of HD to investigate its own staff, D of H clarified that as a Head of Department, he was required under CSR to conduct initial investigation on any alleged case of misconduct of his staff and submit an investigation report to CSB which would decide whether there was a case against the officer concerned and whether disciplinary actions would be required after consultation with the Public Service Commission. This was also in line with the recommendation of the Investigation Panel. D of H reiterated that he had no objection to a third-party investigation to enhance objectivity in pursuing the investigation. However, he would not want to predict CSB's

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response to the proposed third-party investigation.

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Uneven settlement in Tin Fu Court

14. As to whether the settlement in Blocks 2 and 11 of TFC fell within the specified limit that could be tolerated by the superstructure, CSE advised that the roofs of these blocks had already been completed. According to the assessments by the independent consultants based on the latest settlement readings, the overall uneven settlement of these blocks was well within the specified limit of 1 in 300. At present, the foundations caused no concern on the structural safety of these two blocks. However, since foundation settlement had not yet stabilized, the consultants recommended that close monitoring of the buildings should continue. Depending on the monitoring results in the next three months, preventive works might be desirable to ensure satisfactory long-term performance of the foundations. To facilitate a better understanding, the Administration undertook to provide reports on settlement of Blocks 2 and 11 of TFC over the next three months.

(Post-meeting note: The Chinese version of the Administration's response was circulated vide LC Paper No. CB(1) 1323/99-00 and the English version vide LC Paper No. CB(1) 1359/99-00.)

15. Ir Dr HO Chung-tai remarked that the settlement problem in TFC might be attributed to the use of PPC piles since these were seldom used for buildings with more than 30 storeys. D of H said that Ir Dr HO's observation was consistent with the views collected from some professionals during the consultation period on the Consultative Document. He said that the construction industry should have learned the lesson that the use of PPC piles was not worthwhile given the additional works involved in the installation of these piles.

16. Noting that buyers affected by uneven settlement in TCC were offered a special package, including rescission from purchase, Mr Albert HO asked if the same arrangement could apply to TFC purchasers as well. The Deputy Director/Management (DD/M) clarified that the situations between TCC and TFC were different since TCC required reinforcement works which would take about 15 months and would delay the completion of buildings beyond the scheduled completion date. The special package was offered as a compensation for the delay in the completion of the buildings. This was however not the case for TFC as the independent consultants had confirmed that the two blocks in TFC were structurally safe despite that they were still settling. Besides, HA had a contractual obligation to complete the buildings in accordance with the Agreements for Sale and Purchase. D of H assured members that HD would closely monitor the situation and would undertake preventive works whenever necessary to ensure satisfactory long-term performance of the foundation. He added that apart from the 20-year structural guarantee for TFC, consideration was being given to allowing buyers to rescind from purchase under exceptional circumstances taking into account their individual merits.

17. Mr HO asked if HA would continue settlement monitoring for TFC during the 20-year guarantee period. DD/M advised that while settlement monitoring would cease upon the expiry of the Defects Liability Period, HA would be responsible for all structural repairs to any structural components deemed necessary to uphold the structural stability and integrity of the building as a whole structure within the 20-year guarantee period.

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Piling problems at the Home Ownership Scheme (HOS) site at Shatin Area 14B Phase 2

18. On the latest position of the piling problems at Shatin Area 14B Phase 2 (Yuen Chau Kok (YCK)), D of H said that HA had decided to demolish the two problematic blocks in YCK. Such a decision was made taking into account the recommendation of the renowned international engineering team which concluded that remedial works to bring the foundations of these two blocks to the safety standards required under both the contract document of HA and the Building Ordinance were technically infeasible having regard to the risk involved.

19. While agreeing that the proposed demolition was the only way to restore public confidence in HOS, Mr LEE Cheuk-yan asked how HA could recover the cost incurred, particularly when the compensation from the contractor concerned was not sufficient to cover the cost. He was worried that HA might have to use the sale proceeds from other HOS projects or rents from public rental housing to make up the shortfall. D of H advised that HD would duly consider any proposal to settle HA's losses and, if there was no satisfactory proposal, would take such legal actions as appropriate to recoup HA's losses. It would however not be appropriate to comment on the merits of the legal actions at the present stage.

20. Mr LAU Kong-wah expressed concern about the impact of the proposed demolition on the school nearby. Ir Dr HO Chung-tai urged that HD should take into account the time factor when considering the method to be adopted for demolition to minimize the disruption to the students concerned. D of H advised that as the decision to demolish the two blocks was only made on 16 March 2000, details of the demolition had yet to be worked out. DD/W (Ag) supplemented that the demolition would be carried out during the summer recess in order to minimize the impact on the students. He assured members that although it might not be possible to complete the demolition within the summer holiday, HD would expedite the process as far as possible.

21. Given the extent of the problem at YCK, Miss CHAN Yuen-han considered that someone in HA/HD should be held responsible and subject to disciplinary actions, including dismissal. D of H advised that HA/HD was equally concerned about the recent quality problems on public housing and had proposed in the Consultative Document various measures to improve the systems within HD and the operation of the construction industry in order to prevent the recurrence of similar incidents. He however cautioned that as both the Investigation Panel on Accountability for the Piling Contract at Shatin Area 14B Phase 2 and ICAC were conducting their own investigations on the YCK incident, any action by HD/HA at the present stage might prejudice the due process of law. Miss CHAN was not convinced that the Administration should wait for the outcome of the two investigations.

22. On the Terms of Reference (TOR) of the Investigation Panel, the Assistant Director/Legal Advice advised that these were similar to that of the Investigation Panel on the TCC case. At members' request, the Administration undertook to provide the TOR of the Investigation Panel on YCK incident.

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(*Post-meeting note:* The Chinese version of the Administration's response was circulated vide LC Paper No. CB(1) 1323/99-00 and the English version vide LC Paper No. CB(1) 1359/99-00.)

23. As the Investigation Panel on the TCC case had no power to insist upon the attendance of nor the production of documents by parties concerned at hearings, Mr Fred LI questioned the efficacy of the Investigation Panel on the YCK case if they both had the same TOR. Expressing similar concern, Mr James TO considered that Chief Executive (CE) or the Housing Bureau (HB) should appoint a statutory body to probe into the YCK incident to ensure impartiality. The Deputy Secretary for Housing (1) (DS for H (1)) responded that although the Investigation Panel on the YCK case was not a statutory body, it would get as much assistance as possible from the relevant parties so that it could obtain sufficient information before reaching a decision. The Administration therefore held the view that it should not interfere with the work of the Investigation Panel.

24. Mr CHENG Kai-nam said that he had no doubt on the efficacy of the Investigation Panel on the YCK case. Mr NG Leung-sing shared Mr CHENG's view and remarked that the setting up of another investigation body was a duplication of effort. Mr David CHU echoed that such an investigation body could not help resolve the piling problems. The important point was to implement the proposed reforms of the construction industry as soon as possible to improve building quality. Mr SZETO Wah however took a different view. He pointed out that a thorough investigation was necessary to regain public confidence but this could not be achieved without the necessary power. Mr LEE Cheuk-yan also considered that there was a need for a statutory body given the extent of the problem in YCK. Mr Edward HO asked if the establishment of a statutory body would prejudice the work of the Investigation Panel and ICAC. ALA 5 advised that this should not be a problem as in the case of the New Airport where three separate investigations were carried out at the same time.

25. Mr CHENG Kai-nam enquired about the Administration's stance on the reform of the construction industry. In reply, DS for H (1) stressed that reform could not be achieved by HA/HD alone. Changes in areas such as trade practices in the construction industry and training of construction workers required the concerted efforts of different parties. To this end, the Works Bureau (WB) was conducting a review of the operation of the industry. Members would be informed of the outcome of the review in due course. Mr CHENG was not convinced of the Administration's response. He considered that HB should request CE to follow-up the issue on building quality. Ir Dr HO Chung-tai however preferred to wait for the outcome of the review.

26. As a consolidated view of the Panel, Mr CHENG Kai-nam proposed and Mr James TO seconded the following motion:

“That the Panel urges the Housing Bureau to convey the views of the Panel to the Chief Executive, requesting him to appoint a statutory committee to undertake a review of the operation of the entire construction industry and to follow-up the investigations of the

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case of Tin Chung Court, Tin Shui Wai and Shatin Area 14B Phase 2 (Yuen Chau Kok).”

The motion was put to vote. Of the members present, Mr David Chu and Mr NG Leung-sing voted against the motion while Mr CHENG Kai-nam, Mr HO Sai-chu, Mr Edward HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO and Mr SZETO Wah voted for the motion. The motion was carried. The Chairman instructed that the motion be conveyed to the Administration.

(Post-meeting note: A letter to the Administration on the motion was issued on 23 March 2000.)

II Any other business

27. There being no other business, the meeting ended at 7:00 pm.

Legislative Council Secretariat
16 June 2000