

Bills Committee on Land Titles Bill
Thirty-ninth meeting on 21 June 2004

List of follow-up actions to be taken by the Administration

1. On the submission from The Real Estate Developers Association of Hong Kong (REDA) dated 18 June 2004 (LC Paper No. CB(1)2206/03-04(01)), members are advised by the Administration that REDA has been assured that its concerns in the above submission have been adequately addressed by the Administration's paper on "Responses to Bills Committee on Outstanding Matters" (LC Paper No. CB(1)2182/03-04(05)) and by the further Committee Stage amendments (CSAs) to clause 81A which have already been incorporated in the further revised marked-up copy of the Bill tabled at the meeting. The Administration is invited to obtain written confirmation from REDA on this point.
2. On the latest version of clause 29, ALA expresses concern about the ambit of the clause. In his view, by putting in subclause (1) a universal prohibition on the creation, extinguishment, transfer, variation or affection of land by means other than by registration under the Bill, and qualifying such with subclause (2), the power of an owner to dispose of his property would be significantly affected. ALA points out that there are no similar provisions in the title registration system in the United Kingdom. In this regard, the Administration explains that it has been a feature of the Bill since its inception that any disposition of registered land will without exception only have legal effect when it is registered, and that protection of equitable interests would be provided for in subclause (2). Moreover, clause 29 has the support of the Law Society of Hong Kong (Law Soc). Members invite the Administration to do some research, and revisit ALA's points in consultation with Law Soc, Hong Kong Bar Association and other relevant parties during the 2-year period between the enactment and commencement of the Bill.
3. On the latest version of clause 33, the Administration advises that the words "under a provisional agreement for sale and purchase or an agreement for sale and purchase" have not been deleted from subclause (8) as previously proposed because of the concern raised earlier by ALA about the effect of bringing the relation back provision into the Bill again (item 11 of the list of follow-up actions to the thirty-seventh meeting of the Bills Committee on 17 June 2004). However, to address Law Soc's concern about the subclause as a result of the retention of the phrase, the Administration undertakes to revisit subclause (8) after enactment of the Bill.
4. On the latest version of clause 35, the Administration undertakes to revisit subclause (3) after enactment of the Bill to address Law Soc's concern that

- the protection given to a registered charge under the Bill may be too limited.
5. On the latest version of clause 51, the Administration agrees to take the following actions:
 - (a) A member is concerned that the definition of "deed of mutual covenant" (DMC) in subclause (3) is not wide enough to cover developments where there are no undivided shares, such as Hong Lok Yuen and Fairview Park. To address the member's concern, ALA suggests that the word "means" therein could be amended to "includes". The Administration agrees to check the cases highlighted by the member, and consider ALA's suggestion; and
 - (b) ALA opines that subclause (4) should, instead of serving as an avoidance of doubt clause, directly prescribe the effect of the registration of a DMC. In response to his views, the Administration agrees to split subclause (4) into two subclauses to the effect that:
 - (i) the proposed subclause (4)(a) would become subclause (4);
 - (ii) the proposed subclause (4)(b) would become subclause (5); and
 - (iii) the phrase "For the avoidance of doubt" in the beginning of subclause (4) will be moved to the beginning of subclause (5).
 6. On the latest version of clause 70, the Administration agrees to liaise with ALA on how to address his comment on subclause (1A), namely, that the phrase "who may give consent" is not required to achieve the legislative intent, and to confirm with Law Soc that the version of the subclause so amended is agreeable to Law Soc.
 7. On the latest version of clause 7 of the new Schedule 1A, the Administration confirms that the inadvertent repetition of "to be" in subclause (2) would be rectified.
 8. On the latest version of clause 8 of the new Schedule 1A, the Administration agrees to move the phrase "Subject to the regulations," to after "the register shall".
 9. On the latest version of section 76 of Schedule 2, the Administration agrees to delete the phrase "the title of " from the proposed new section (10)(a) of the Public Health and Municipal Services Ordinance (Cap. 132) pursuant to ALA's suggestion.