

立法會
Legislative Council

LC Paper No. CB(1) 1427/04-05
(These minutes have been seen
by the Administration)

Ref : CB1/PL/HG/1

Panel on Housing

Minutes of meeting
held on Tuesday, 12 April 2005, at 10:45 am
in the Chamber of the Legislative Council Building

Members present : Hon CHAN Kam-lam, JP (Chairman)
Hon LEE Wing-tat (Deputy Chairman)
Hon Fred LI Wah-ming, JP
Hon James TO Kun-sun
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, JP
Hon WONG Kwok-hing, MH
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon Patrick LAU Sau-shing, SBS, JP
Hon Albert Jinghan CHENG

Members absent : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Dr Hon YEUNG Sum

Public officers attending : **Agenda item IV**

Mr TAM Wing-pong, JP
Deputy Director of Housing (Strategy)

Mr Gilbert KO
Assistant Director of Housing (Private Housing)

Mr CHAN Nap-ming
Chief Architect/Procurement
Housing Department

Agenda item V

Mr TAM Wing-pong, JP
Deputy Director of Housing (Strategy)

Mr Gilbert KO
Assistant Director of Housing (Private Housing)

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Ms Sarah YUEN
Senior Council Secretary (1)6

Miss Mandy POON
Legislative Assistant(1)4

Action

I Confirmation of minutes

(LC Paper No. CB(1) 1172/04-05 -- Minutes of special meeting on
21 January 2005)

The minutes of the special meeting held on 21 January 2005 were confirmed.

II Information papers issued since last meeting

2. Members noted that no information paper had been issued since the last meeting on 18 March 2005.

III Items for discussion at the next meeting

(LC Paper No. CB(1) 1218/04-05(01) -- List of outstanding items for
discussion

LC Paper No. CB(1) 1218/04-05(02) -- List of follow-up actions)

3. Since the date of the next regular meeting in May 2005 fell on a public holiday, members agreed to reschedule the meeting to Tuesday, 10 May 2005, at 8:30 am to discuss the subject on “Development near Choi Wan Road and Jordan Valley”. As regards the remaining discussion item, members agreed that this would be decided after consultation with the Administration.

(Post-meeting note: The item on “Clearance of the Housing Authority (HA)’s old flatted factory estates” was subsequently included in the agenda.)

4. Mr Albert CHAN proposed to include “Pre-sale Consent Scheme” in the list of outstanding items for discussion. The Chairman advised that he would need to confirm with the Administration on whether the Panel was the appropriate forum for discussing the subject, which was under the purview of the Lands Department (Lands D).

IV Disposal of surplus Home Ownership Scheme flats and Private Sector Participation Scheme flats

- (LC Paper No. CB(1) 1218/04-05(03) -- Updated background brief on “Disposal of surplus Home Ownership Scheme and Private Sector Participation Scheme flats” prepared by the Legislative Council Secretariat
- LC Paper No. CB(1) 1218/04-05(04) -- Updated background brief on “Disposal of Hunghom Peninsula Private Sector Participation Scheme flats” prepared by the Legislative Council Secretariat
- LC Paper No. CB(1) 1218/04-05(05) -- Updated background brief on “Disposal of Kingsford Terrace Private Sector Participation Scheme flats” prepared by the Legislative Council Secretariat
- LC Paper No. CB(1) 1218/04-05(06) -- Information paper provided by the Administration)

5. The Deputy Director of Housing (Strategy) (DD of H(S)) relayed to members the Secretary for Housing, Planning and Lands (SHPL)’s apology for not being able to attend the meeting as it clashed with the meeting of the Executive Council. He then made the following statements on behalf of SHPL -

- (a) under the repositioned housing policy, the unsold and returned Home Ownership Scheme (HOS) flats would not be offered for sale before the end of 2006 ;
- (b) public views on this issue were diverse. The Administration would continue to closely monitor the property market. Should there be unforeseen drastic changes in the market warranting re-assessment of the situation, the Administration would consider taking appropriate measures to meet the changing circumstances; and

- (c) in the absence of such drastic changes, the Administration would consult HA in the latter part of 2006 on the quantity and arrangements for the resumption of sale of surplus HOS flats. The Panel would be informed of the details in due course.

He also took the opportunity to respond to a question raised at the special meeting of the Finance Committee on 11 April 2005 regarding the expenditure incurred by HA for managing and maintaining surplus HOS flats. He said that from 2003 to March 2005, about \$216 million were incurred for payment of management fees and maintenance charges for the flats. It was estimated that the management costs from now till end of 2006 would be in the region of \$170 million.

6. In reply to the Chairman's enquiry on details of the management costs, the Chief Architect/Procurement explained that these included both management fees and Government rent for the 16 500 surplus HOS flats. The average monthly spending was a few hundred dollars per flat.

Early resumption of sale of returned and unsold flats in existing HOS courts

7. Mr WONG Kwok-hing considered it a waste of resources to suspend sale of the surplus HOS flats as this would not only result in loss of income but also incur substantial costs for maintaining these flats. This would further aggravate the already stringent financial situation of HA. In view of the gradual revival of the property market, the drop in number of negative equity cases and the increased aspiration of home ownership of the public, he urged the Administration to seriously consider resuming sale of returned and unsold HOS flats to Green Form applicants before 2006.

8. In response, DD of H(S) said that the management costs were worth spending because, as some academics and commentators also agreed, the suspension of HOS sales had helped the recovery of property market. He added that notwithstanding signs of the property market regaining vitality, it was incumbent upon the Government to maintain the integrity of the housing policy. Indeed, the Administration noted that the community's views on this issue remained diverse. While some would welcome sale of subsidized flats in view of a booming market, many were concerned about the impact of early sale on the stability of the market. In the interest of consistent implementation of the re-positioned housing policy which was working well, the decision that the surplus HOS flats would not be offered for sale before the end of 2006 would remain unchanged barring unforeseen circumstances. The current intention was to consult HA in the latter part of 2006 on the quantity and arrangements for the resumption of sale of returned and unsold HOS flats.

9. Mr Albert CHAN was disappointed that the Administration had declined to resume early sale of returned and unsold HOS flats regardless of the changed circumstances. He held the view that early sale of these HOS flats would not have much impact on the property market. He then enquired about the criteria which the Administration had adopted in assessing market stability. Mr LEUNG Kwok-hung

Admin

also cast doubt on the effectiveness of the re-positioned housing policy on the property market given that only prices of luxurious flats had gone up while transactions in the secondary market were still numbered. Owners of negative equity had yet to benefit from the booming market. In this connection, he considered it necessary for the Administration to provide statistics on the gains of the property market and the expenditure incurred by the HA as a result of the re-positioned housing policy. DD of H(S) explained that the Administration did not have a benchmark on market stability but would closely monitor the situation taking into account the wider context of macro economy. He would see if meaningful statistics of the property market as requested by Mr LEUNG was available.

10. Mr Albert CHAN was not convinced of the Administration's response. He said that the suspension of sale of HOS flats had indeed affected the financial situation of HA which had led to the divestment of its retail and car-parking (RC) facilities at a pathetic price. The low intake rate in existing HOS courts as a result of the suspension had also affected the businesses of the commercial tenants concerned and forced HA to offer concessionary rents as compensation for their business loss, thereby further aggravating HA's financial hardship. Expressing similar view, Mr LEUNG Kwok-hung was skeptical that the sale of HOS flats was deliberately suspended with a view to using HA's financial hardship as an excuse for divesting the RC facilities and declining rent cut for PRH. He then requested to move the following motion -

“本委員會要求立法會引用《權力及特權條例》，成立專責委員會，公開聆訊，徹查領匯事件。”

“That this Panel requests that the Legislative Council set up a select committee under the Legislative Council (Powers and Privileges) Ordinance to conduct public hearings to investigate into The Link REIT incident.”

The Chairman advised that Mr LEUNG's request could not be acceded to as the proposed motion was not related to the agenda item under discussion. In view of the impending court proceedings, the subject on divestment might more appropriately be included in the Panel's list of outstanding items for discussion.

11. In an attempt to persuade the Administration to resume early sale of surplus HOS flats, Mr WONG Kwok-hing suggested a phased approach to minimize the possible impact of the sale of returned and unsold HOS flats on the property market. Mr LEE Wing-tat echoed that consideration could be given to using the sales method of uncompleted flats to put these HOS flats on pre-sale in early 2006 to enable timely completion of all necessary preparatory work so that the flats could be made available for immediate intake upon the resumption of sale.

12. While acknowledging members' views, DD of H(S) stressed that the moratorium on sale of returned and unsold HOS flats as subsidized housing before the end of 2006 was to give a clear signal to the market that the Government was determined to withdraw from its role as property developer and minimize its intervention in the market. Any deviation from this would be interpreted as a wavering housing policy. He further pointed out that it might not be appropriate or necessary to sell these HOS flats as uncompleted flats because they were completed flats and ready for intake upon resumption of sale. Mr LEE Wing-tat however pointed out that HA had conducted pre-sale before. He urged the Administration to seriously consider his proposal as this would give an assurance to the eligible families that it was only a matter of time that their aspiration for home ownership would be met upon resumption of sale of returned and unsold HOS flats.

Disposal of surplus flats in new HOS developments

13. Mr Fred LI remarked that apart from the high maintenance costs, HA would also incur financial loss as a result of depreciation of the surplus HOS flats. He therefore supported early resumption of sale of returned and unsold HOS flats to Green Form applicants as this could facilitate re-allocation of PRH to those on the Waiting List. Given the good response to the conversion of surplus flats in new HOS development to PRH, Mr LI asked if consideration would be given to converting more of the remaining surplus HOS flats to PRH to meet the demand, particularly from sitting tenants who wished to move to larger flats or to other districts. Mr Abraham SHEK opined that the suspension of sale of HOS flats had indeed contributed to the recovery of the property market. He also agreed that the scarce public housing resources should be used to help those with genuine need for public housing rather than subsidizing home purchase.

14. In response, DD of H(S) advised that as the remaining surplus HOS flats were generally of larger size (most of them were three-bedroom flats) and with better standard of provision, it might not be the best use of resources to convert these HOS flats to PRH given the predominance of small households on the Waiting List. Besides, these larger flats which would inevitably attract higher rents might have impact on the HA's domestic rent policy. Nevertheless, he assured members that HA maintained an open mind and would consider any innovative but practicable options.

15. Noting that a few educational institutions had indicated interest in the surplus flats, Mr WONG Kwok-hing enquired about the latest development in the disposal of these flats in new HOS developments which had never been offered for sale. In reply, DD of H(S) confirmed that a few educational institutions had approached the Administration to explore the feasibility of their proposals, but these talks were informal and at a preliminary stage. He added that with the purchase of 4 304 surplus HOS flats in July 2004, the Government had no imminent need for additional HOS flats for staff quarters use. The option of conversion to guesthouses was also found infeasible after thorough examination.

Way forward

16. Most members were disappointed that despite repeated requests, the Administration still declined to consider resuming early sale of returned and unsold HOS flats. Referring to the motion passed by the Panel in the last legislative session on 3 November 2003 (Appendix III to LC Paper No. CB(1)1218/04-05(03)), Mr Albert CHAN proposed to move a similar motion as follows -

“That this Panel urges the Government to sell the HOS flats under the attached Lists A and B to Green Form applicants as soon as possible.”

The proposal was seconded by Mr Fred LI.

17. Mr Abraham SHEK said that he was opposed to the motion and would like to move the following motion -

“that this Panel urges HA to immediately convert the unused HOS flats to PRH.”

To save time, the Chairman said that members who wished to move motions in future should prepare their wordings in good time for distribution to other members for consideration at meetings. Mr SHEK subsequently decided to withdraw his motion.

18. The Chairman put Mr Albert CHAN’s motion to vote. Of the members present, five voted for the motion while one voted against it. The Chairman declared that the motion was carried. Mr WONG Kwok-hing opined that the Chairman should request the Chairman of the House Committee to relay the Panel’s views on the disposal of surplus HOS flats to the Chief Secretary for Administration.

(Post-meeting note: A letter on the motion was issued to the Administration on 13 April 2005. The motion was also circulated to members vide LC Paper Nos. CB(1) 1260 and 1275/04-05 on 13 and 14 April 2005 respectively.)

V Sales descriptions of overseas and local uncompleted residential properties

(LC Paper No. CB(1) 1218/04-05(07) -- Referral from Duty Roster Members on 15 September 1998 regarding problematic uncompleted residential properties in Mainland China

LC Paper No. CB(1) 1218/04-05(08) -- Background brief on “Sales descriptions of overseas and local uncompleted residential properties” prepared by the Legislative Council Secretariat

LC Paper No. CB(1) 1218/04-05(09) -- Information paper provided by the Administration)

19. Mr Abraham SHEK declared interests as the Member returned from the functional constituency of real estate and construction, of which The Real Estate Developers Association of Hong Kong (REDA) was an elector.

20. DD of H(S) briefed members on the Administration's position on proposals to introduce legislation to regulate sales brochures for overseas and local uncompleted residential properties by highlighting the salient points in the Administration's information paper.

Local residential properties

21. Mr WONG Kwok-hing could not accept that the Administration's decision of not resuscitating proposals to regulate sales brochures for local uncompleted residential properties was made because of the self-regulatory regime, which mainly relied on a set of guidelines promulgated by REDA regarding the types of information to be incorporated in the sales brochures. He pointed out that unlike legislation which had sanctions against contravention and malpractice, there was no control over non-compliance with REDA's guidelines. Besides, it was the recommendation of the Law Reform Commission (LRC) that regulation of sales brochures should be enforced by legislation.

22. In response, DD of H(S) explained that the self-regulatory regime was part of the following three-pronged approach which the Administration had adopted since 2001 to improve the dissemination and the quality of sales information on uncompleted residential properties:

- (a) closer liaison with REDA to implement the self-regulatory regime and handle complaints;
- (b) enhancement of standards of estate agents by the Estate Agents Authority (EAA) since estate agents had to rely on sales brochure information when dealing with clients and should disseminate accurate information to prospective buyers; and
- (c) stepping up of efforts to promote consumer awareness and education on points to note in property purchases by the Consumer Council (CC).

The above approach was working well and these organisations also felt that the self-regulation mechanism was generally meeting its intended objectives. Furthermore, only 17 complaints relating to information contained in sales brochures to which the guidelines applied were received from August 2001 to March 2005 and all of them had been properly dealt with. In view of these considerations, the Administration did not intend to resuscitate legislative proposals to regulate sales brochures for local

uncompleted residential properties but would continue to work closely with CC, REDA and EAA to ensure the guidelines were adequate and effective in meeting the needs of consumers and the property sector.

23. Mr LEE Wing-tat opined that the REDA's guidelines were too vague and not able to include all essential information such as completion date of development, which was the cause of many complaints. The location plan was only required to show communal facilities within the radius of 0.25 kilometres of the development. REDA's guidelines also failed to address new problems, including those relating to "binding services" such as internet service provided by operators selected by the management company. He further pointed out that property buyers had little bargaining power as far as the Deed of Mutual Covenant (DMC) was concerned and might not be aware of any unfair terms therein at the time of purchase. There was a need for Lands D to ensure DMC terms were in order so as to safeguard consumer interests. Mr Albert CHAN also criticized the Administration for not respecting LRC which had recommended that regulation on sales brochures should be enforced by legislation in order to provide sufficient protection to prospective purchasers. He was skeptical that the Administration was colluding with developers or yielding to their pressure. Expressing similar view, Mr LEUNG Kwok-hung emphasized the need for legislation to ensure that every party concerned was on the same level playing field.

24. In reply, DD of H(S) said that REDA's guidelines covered an array of essential information similar to what LRC recommended, and that there was close liaison among CC, REDA, EAA and the Administration to keep the self-regulatory regime under review and to identify scope for further improvements in the light of operational experience. In operating the self-regulatory regime, REDA examined every sales brochure issued by its members and worked with them for rectification in the event of discrepancy or omission. To provide additional assurance, the Administration also examined, in parallel with REDA's checking, the sales brochures of local uncompleted residential properties put on sale. The important thing was to ensure accuracy of information provided in sales brochures to help prospective purchasers to make well-informed decisions on whether they should buy an uncompleted residential property. Given that the property market in Hong Kong was highly competitive, developers attached great importance to company reputation and would stand to gain from complying with the self-regulatory regime.

25. Regarding REDA's guidelines, DD of H(S) advised that these could be updated from time to time to meet the changing needs of the market and consumers' expectation, and hence more responsive and flexible than a legislative scheme. By way of illustration, in response to public concerns as to the scope of services covered by management fees and to suggestions of CC, REDA had recently issued additional guidelines requiring its members to make available in their sales brochures information on the payment terms and contract periods for telecommunication services if the management fees were inclusive of such services. As regards DMC, DD of H(S) advised that developers were already asked by REDA to place a copy of the relevant

DMC in each sales office. He also undertook to relay members' concern about the fairness of DMC terms to Lands D.

26. In view of the relatively small number of complaints received after the implementation of the self-regulatory regime, Mr Abraham SHEK agreed that there was no need to enact legislation to regulate sales brochures for local uncompleted residential properties. It would be more effective and practicable for the market to take its course. Other members however queried the accuracy of the information on number of complaints as their offices received far more complaints than the figure stated by the Administration. DD of H(S) said that members were welcomed to go over their complaint cases with the Administration.

Overseas residential properties

27. While acknowledging that the current property market was more of a buyer market, Miss CHAN Yuen-han cautioned that the problems of inadequate and misleading sales information would emerge again when the market continued to boom. She was particularly concerned about problematic overseas uncompleted residential properties, especially those in the Mainland which had been dragged on for a long time. It was however disappointing that the Administration had declined to provide assistance to the buyers concerned on the ground that the transactions were carried outside Hong Kong. She pointed out that some of the problematic properties concerned had agents in Hong Kong to deal with the transactions. Mr Frederick FUNG echoed that there should be legislation to regulate sales brochures on overseas uncompleted residential properties printed and distributed in Hong Kong. In the event that the overseas properties were a joint venture involving a developer in Hong Kong, the developer concerned should be held responsible for any problems incurred.

28. In response, DD of H(S) explained that while the transactions might be carried out in Hong Kong, the properties concerned were outside Hong Kong and hence fell outside the jurisdiction of Hong Kong. He added that in recent years, consumers had become more aware of the higher risk of purchasing overseas uncompleted residential properties and had become more cautious in considering buying such properties. EAA had also published a pamphlet setting out the matters which prospective buyers of such properties should be aware of. The number of complaints about sales of overseas uncompleted residential properties had diminished in recent years. The need for legislation had therefore become less imminent.

Way forward

29. Members were not convinced of the Administration's response. They saw a need to schedule another meeting to receive deputations, including REDA and CC, to discuss the problems related to sales brochures of uncompleted residential properties and the need for legislation to regulate them. To facilitate preparatory arrangements, the Chairman called upon members to refer cases, particularly local cases, to the Clerk.

He also urged the Administration to further examine measures to ensure information contained in sales brochures were accurate and adequate.

VI Any other business

30. There being no other business, the meeting ended at 12:45 pm.

Council Business Division 1
Legislative Council Secretariat
9 May 2005