

立法會
Legislative Council

LC Paper No. CB(1)2079/06-07
(These minutes have been seen
by the Administration)

Ref : CB1/PL/HG/1

Panel on Housing

Minutes of meeting
held on Monday, 2 April 2007, at 2:30 pm
in the Chamber of the Legislative Council Building

- Members present** : Hon LEE Wing-tat (Chairman)
Hon Albert HO Chun-yan
Hon Fred LI Wah-ming, JP
Hon James TO Kun-sun
Hon CHAN Yuen-han, JP
Dr Hon YEUNG Sum
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, SBS, JP
Dr Hon Joseph LEE Kok-long, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Prof Hon Patrick LAU Sau-shing, SBS, JP
- Members attending** : Hon James TIEN Pei-chun, GBS, JP
Dr Hon KWOK Ka-ki
- Members absent** : Hon LI Kwok-ying, MH, JP (Deputy Chairman)
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon LEUNG Yiu-chung
Hon WONG Kwok-hing, MH

**Public officers
attending**

: Agenda Item IV

Mr Thomas C Y CHAN, JP
Permanent Secretary for Housing, Planning and Lands
(Housing)

Miss Mary CHOW Shuk-ching, JP
Deputy Secretary for Housing, Planning and Lands
(Housing)

Mr K K YEUNG
Principal Assistant Secretary (Private Housing)
Housing, Planning and Lands Bureau

Mr Jeremy GLEN
Assistant Director/Legal (HK&NTW)
Legal Advisory & Conveyancing Office/Headquarters
Lands Department

**Attendance by
invitation**

: Agenda Item IV

The Hong Kong Institute of Surveyors

Mr Raymond CHAN
President

Ms Serena LAU
Chairman, General Practice Division

The Real Estate Developers Association of Hong Kong

Mr Stewart LEUNG
Vice Chairman

Mr Emmanuel YIP
Representative

Mr Eric SZETO
Representative

Mr Augustine WONG
Representative

Mr Tony TSE
Representative

Mr Wilson CHAN
Representative

Ms Marit CHUNG
Representative

Mr Frankie TSE
Representative

Ms Virginia KAO
Representative

Mr Peter KWOK
Representative

Ms Mabelle MA
Representative

Mr C K YU
Representative

Mr Louis LOONG
Secretary General

Consumer Council

Ms Connie LAU
Chief Executive

Ms Vera TAM
Chief Research & Trade Practices Officer

Estate Agents Authority

Mr Steven POON Kwok-lim, JP
Chairman

Ms Sandy CHAN
Chief Executive Officer

Mr Pius CHENG
Director of Regulatory Affairs & General Counsel

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)6

Staff in attendance : Ms Annette LAM
Senior Council Secretary (1)3

Ms Sarah YUEN
Senior Council Secretary (1)6

Ms Michelle NIEN
Legislative Assistant (1)9

Action

I Confirmation of minutes

(LC Paper No. CB(1)1235/06-07 -- Minutes of meeting on
4 January 2007)

The minutes of the meeting held on 4 January 2007 were confirmed.

II Information papers issued since last meeting

(LC Paper No. CB(1)1079/06-07(01) -- Land Registry Statistics
(*issued via e-mail on 6 March 2007*)

LC Paper No. CB(1)1095/06-07(01) -- Referral from the Complaints
Division on housing assistance to
people living in bedspace
apartments and cubicle
apartments (Chinese version
only))

2. Members noted the two information papers issued since last meeting.

III Items for discussion at the next meeting

(LC Paper No. CB(1)1221/06-07(01) -- List of outstanding items for
discussion

LC Paper No. CB(1)1221/06-07(02) -- List of follow-up actions)

3. Members noted that the Administration had proposed the following items
for discussion at the next regular meeting to be held on Tuesday, 7 May 2007, at
2:30 pm:

- (a) Report on the outcome of comprehensive structural investigations on Wo Lok Estate and Ma Tau Wai Estate; and
- (b) Demolition of buildings at Kennedy Town Comprehensive Development Area.

4. Referring to the extension of smoking ban under the Marking Scheme for Estate Management Enforcement (the Marking Scheme) to cover all common areas in the Housing Authority (HA) public housing estates effective from 1 April 2007, Mr Abraham SHEK was concerned that tenants in breach of the ban would be allotted penalty points and have their tenancy terminated once they accrued 16 penalty points within two years. Given that smoking was a personal behaviour, Mr SHEK considered it unfair that the whole household would be penalized by having the tenancy terminated for the misdeeds of one individual family member found smoking in the common areas in public housing estates. He suggested that the issue be discussed at the next Panel meeting. Mr Tommy CHEUNG also raised concern about the limited number of designated smoking areas in each estate as well as the small size of the areas. He supported Mr SHEK's proposal to discuss the subject on the extension of smoking restriction in public housing estates under the Marking Scheme. Members agreed to include the proposed item in the agenda of the meeting on 7 May 2007.

5. The Chairman reminded members that a special meeting would be held on Friday, 13 April 2007 at 8:30 am to discuss with the Administration and the Link Management Limited on the provision and management of retail and car-parking facilities in public housing estates after the divestment of the facilities by HA.

IV Disclosure of saleable area in sales description for residential properties

(LC Paper No. CB(1)1221/06-07(03) -- Information paper provided by the Administration

LC Paper No. CB(1)1265/06-07(01) -- Letter dated 27 March 2007 from the Chairman to the Administration (Chinese version only)

LC Paper No. CB(1)1265/06-07(02) -- Submission from Democratic Party (Chinese version only)

LC Paper No. CB(1)1276/06-07(01) -- Memo from the Complaints Division on saleable area of new units in uncompleted private residential development (Chinese version only)

- LC Paper No. CB(1)899/06-07(01) -- Letter dated 11 January 2007 from Hon Albert HO Chun-yan and Dr Hon YEUNG Sum to the Chairman on calculation of floor area in the sale arrangements for uncompleted first-hand residential units
- LC Paper No. CB(1)1303/06-07(01) -- Administration's response to the letter dated 27 March 2007 from the Chairman (LC Paper No. CB(1)1265/06-07(01)) (Chinese version only)
(tabled and subsequently issued on 3 April 2007)
- LC Paper No. CB(1)1303/06-07(02) -- Submission from Joint Council of Estate Agents Associations (Chinese version only)
(tabled and subsequently issued on 3 April 2007)
- LC Paper No. CB(1)1433/06-07(01) -- The Real Estate Developers Association's response to questions 7 and 9 of the letter dated 27 March 2007 from the Chairman
(issued on 23 April 2007)

Meeting with deputations and the Administration

The Administration

6. The Permanent Secretary for Housing, Planning and Lands (Housing) (PSH) briefed members on the current practice with regard to the disclosure of floor area information in residential sales descriptions, and the measures to further enhance transparency of saleable area (SA) information including requirements in the Consent Scheme (Consent Scheme), consumer education, regulatory control on the practices of estate agents, and the self-regulatory regime of developers. He highlighted the salient points as follows:

- (a) The Administration had adopted a multi-pronged approach to improve market transparency for the protection of consumers while maintaining a free business environment in the residential property sales market. The definition of SA and the method of its measurement as prescribed under the Consent Scheme were in line with the Code of Measuring Practice (the Code) published by the Hong Kong Institute of Surveyors (HKIS) and had been adopted by the Real Estate Developers Association (REDA) in its guidelines issued for compliance by its members;

- (b) To promote consumer protection, the Consumer Council (CC) and the Estate Agents Authority (EAA) had jointly published a consumer checklist to remind property purchasers of the need to study carefully floor area information including SA in the sales brochures;
- (c) Apart from conducting sales sites inspections and issuing circulars regulating the practice of estate agents and requiring them to provide accurate floor area information to prospective buyers, EAA had stepped up enforcement actions against professional misconduct of estate agents who had made misrepresentations of property size;
- (d) A consistent and clear measurement of SA would help enhance market transparency. To remove the existing grey areas resulting from the evolution of new building technologies and terminologies, HKIS was carrying out a review of the Code and was consulting concerned parties, including CC and REDA, on the proposed revisions. When a consensus was reached among HKIS, CC, REDA and other concerned parties, the Administration would explore the feasibility of adopting the revised Code in the Consent Scheme and REDA's guidelines;
- (e) To ensure effective operation of the developers' self-regulatory regime, the Administration, in conjunction with CC and EAA, would continue to meet regularly with REDA to identify scope for further improvements to REDA's guidelines; and
- (f) If developers' self-regulatory regime and the current disclosure regime of SA failed to achieve the desired outcome, the Administration would not rule out the option of introducing appropriate administrative or legislative measures to reinforce the existing mechanism.

Hong Kong Institute of Surveyors

7. Mr Raymond CHAN, President of HKIS, said that in view of the evolution of new building technologies and terminologies and in order to remove grey areas that were subject to different interpretations, HKIS considered it necessary to review the Code which was drawn up in 1999. HKIS had formed a working group (the Working Group) to take forward the matter which decided to review the Code in stages with the first stage related to SA and the next stage on Gross Floor Area (GFA). The Working Group had proposed that SA be categorized into Type A and Type B. Type A comprised roofed area with full head-room of not less than two meters contained within the enclosing walls, and area that can be used for full normal occupation without any restrictions on use. SA not classified as Type A including areas such as cockloft, terrace, garden, flat roof, and podium etc would come under Type B. The measurements of Type A and Type B SA would be separately stated. To ensure consistency and to avoid confusion, the Working Group also recommended to standardize the use of terminology whereby only

"Saleable Area" and the Chinese term "銷售面積" would be used in the revised Code. The revised Code aimed to provide a fair, transparent and user-friendly platform for the public to have an easy access to essential information on SA. HKIS was consulting concerned parties, including CC and REDA, on its draft proposal.

The Real Estate Developers Association of Hong Kong

8. Mr Stewart LEUNG, Vice Chairman of REDA, said that REDA had all along attached great importance to enhancing transparency in property sales market, particularly in SA information, and had been maintaining communication with relevant parties to ensure market transparency. REDA had issued guidelines requiring its members to disclose in sales brochures individual unit's typical floor plan and SA of bay windows, utility platforms, roof, open yards etc. in accordance with the definition prescribed in the Consent Scheme. A clear breakdown of SA was also required to be set out in the Agreement for Sale and Purchase (ASP). He said that REDA supported in principle HKIS's proposal to standardize the use of the term "Saleable Area" and was discussing with HKIS on the details. He pointed out that with the above information, prospective buyers could know clearly the layout and the floor area of a unit. Since sales brochures contained information on both GFA and SA, consumers were at liberty to make informed comparisons between GFA and SA of a unit, and prices per square foot of GFA and SA. He further highlighted the recent measures taken by REDA to improve self-regulation, including the setting up of the Compliance Committee to handle complaints against members relating to sales arrangements of residential properties and the requirement for an independent professional auditor to certify that the documentation was in order before pre-sale of development could proceed.

Consumer Council

9. Given that property purchase was the biggest investment for most people, Ms Connie LAU, Chief Executive of the Consumer Council (CC), said that property buyers should be best protected by an open, fair and consistent mechanism that would provide them with adequate and accurate sales information. She said that CC supported HKIS's proposal to revise the Code, including adopting SA as the standard term, and specifying separately the core areas and ancillary areas of flats in the sales brochures. She opined that a clear and uniform definition of SA and a standardized method of measuring floor space would help enhance consistency and accuracy in sales descriptions and enable consumers to make informed decisions in the purchase of properties. She urged all parties concerned to reach a consensus on a uniform definition of SA and a standardized method of measurement. Furthermore, CC was of the view that the revised Code should be applied to uncompleted first-hand residential properties under the Consent Scheme and the Non-Consent Scheme.

Estate Agents Authority

10. Pointing out that most property transactions were arranged through estate agents, Mr Steven POON, Chairman of the Estates Agents Authority (EAA), stressed that EAA was committed to promoting the transparency and fairness of property transactions through regulating the practice and conduct of estate agents. In order to raise estate agents' professionalism, caliber and standard of services, EAA had tightened requirements on licence qualifying examinations and stepped up enforcement actions against misconduct of estate agents. Apart from regulating the practice of estate agents and providing them with continuous training, EAA would in the future focus its work on consumer education to enhance consumers' awareness of their rights and the need to seek protection. In this regard, EAA in conjunction with CC had published a consumer checklist to remind consumers to refer to area information and sales descriptions in sales brochures before committing to purchase.

Discussion

The need for an agreed standard term and a standardized method for measuring floor area

11. Mr James TO noted with concern that currently different methods were adopted by developers for calculating the per square foot price of uncompleted residential flats, such as per square foot price of SA or per square foot price of GFA. In the absence of a common basis for making a meaningful and objective comparison of the different properties, consumers would get confused easily. He was also aware of cases where the saleable area of a flat was significantly smaller than GFA stated in the sales brochures and ASP and the discrepancy could be as high as 20-30%. The situations were very unsatisfactory and unfair to consumers. Mr TO sought REDA's view on the need to develop standardized method for measuring floor area of residential properties with statutory effect and to disclose the information in the sales brochures for compliance by developers. Referring to a recent case in which a developer had included the curtain wall in the calculation of SA purportedly to make use of the loophole that there was no clear definition on such facility in the Consent Scheme, Mr TO stressed the importance of having a clear definition on SA to safeguard the interests of purchasers.

12. Mr Stewart LEUNG of REDA said that new building technologies had brought about new issues relating to floor area of units such as curtain walls and pre-fabricated building components which needed to be addressed and discussed by relevant parties. He reiterated that REDA would follow-up with the concerned parties in improving the disclosure of SA for residential properties in order to enhance protection for property buyers. He stressed that the manner in which the area created by curtain walls was being presented in sales brochures was in full compliance with the current legislations and in accordance with the Government's approved General Building Plans, otherwise a pre-sale consent and occupation permit would not have been given. He did not agree that there could be a gross discrepancy of as much as 20 to 30% between GFA and SA of a unit, and as GFA

and SA had been listed out clearly, purchasers were in full comprehension of the layout and the floor area of a unit when making their decision to purchase. REDA had agreed that developers should specify separately in the sales brochures all the components such as curtain wall, bay window, open yard etc. which made up SA for a unit. While developers could provide such information for first-hand residential properties, information on SA or GFA might not be readily available for private residential flats completed years ago. It was envisaged that disputes relating to measurement of floor area for these flats would arise when they were sold in the secondary market. In this connection, Mr Raymond CHAN of HKIS advised that the Rating and Valuation Department maintained a data-base on SA of secondary market properties which the public could access by paying a small fee. As such, he envisaged that the sale of secondary market properties built years ago would not pose too much problem. On the issue of "curtain wall", he pointed out that in the absence of a clear definition on the term under the Consent Scheme and on the basis of the existing Code, it was not unjustified to include the area of "curtain wall" in the calculation of SA. He said that HKIS was now reviewing the grey area in relation to "curtain wall".

13. Mr Albert HO shared the concern about providing misleading and confusing information to consumers when different terms on and methods for calculating floor areas of residential flats were used. He pointed out that the main concern of consumers was related to "usable area" of a flat and noted with concern that there were cases where the usable area of a flat was only about 40% of GFA. Mr HO considered that one standard term, be it termed "usable area" or "saleable area", rather than GFA, should be used in the sales brochures and ASP.

14. In response to Mr HO's enquiry about measurement of SA, Mr Raymond CHAN of HKIS explained that in general, SA of a unit comprised the floor area exclusively allocated to that unit including balconies and other similar features, all internal partitions and columns within the unit, the external wall and its full thickness. In short, SA of a unit referred to area contained within the enclosing walls of the unit measured up to the exterior face of an external wall or the center line of a separating walls between adjoining units, as the case may be. SA excluded common areas such as staircases, lift shafts, lobbies and communal facilities. He said that given some common areas such as Club House and other facilities were indeed for the use and enjoyment of residents, including them in the calculation of GFA was not unjustified. Nonetheless, apportionment of these common areas and the method of calculation involved complicated issues that needed to be resolved with care. In this connection, he reiterated that the Working Group had planned to review GFA after the review of SA.

15. On the concern about GFA of residential flats, Mr Stewart LEUNG of REDA said that GFA as commonly used in sales brochures referred to the aggregate of SA of a flat plus the apportioned common areas for use by residents and areas for the exclusive use of the purchaser. He maintained that it was important to list out clearly GFA as well as SA of a flat, including the respective areas of all the components such as balcony and bay window etc. and other features that made up of GFA, so that consumers would know what they were buying. On the case

concerning the great discrepancy between the "usable area" and GFA of a flat, Mr LEUNG said that the sales brochures in question simply listed out the areas of all components of a flat that were sold to the buyer. He believed therefore that the case in question was the result of misunderstanding and a mis-interpretation of the concept and calculation of GFA and SA.

16. In this connection, Ms Connie LAU, Chief Executive of CC said that CC supported the use of one standard term "saleable area" as the basis for calculating the per square foot price of a property. She added that a clearly defined "saleable area" would enable consumers to know clearly the per square foot price they have to pay for the property. Though this could lead to a significant increase in per square foot price of properties since currently developers normally use GFA as the basis for calculating the per square foot price of properties, the proposed method was only reflecting the reality.

17. Dr YEUNG Sum concurred that the use of a clearly defined standard term such as "saleable area", a uniform method of calculation of SA, as well as proper disclosure of sales information in the sales brochures would not only help avoid possible manipulation by developers but also facilitate regulation and enforcement actions by relevant authorities.

18. Sharing the views, the Chairman asked whether there was requirement under the Consent Scheme for developers to list out the per square foot price of a residential development. The Assistant Director/Legal (HK&NTW), Legal Advisory & Conveyancing Office (LACO)/Headquarters Lands Department replied that there was no such requirement. The Chairman considered it a problem that the Consent Scheme only required the developers to provide in the sales brochures a price list of the flats but not the per square foot price of SA.

19. In response, Mr Stewart LEUNG of REDA said that the developers had no intention whatsoever to mislead the purchasers. He pointed out that floor areas of a unit, including its various components, were calculated by architects and surveyors, not developers. As SA included only area exclusively for the use of the owner of a flat, specification of SA in the sales brochures would enable buyers to clearly understand what they were buying. He affirmed that at present, there were no rules and regulations requiring developers to list out the per square foot price of a property. Developers could simply list the total sales price without any breakdown or per square foot price. Notwithstanding that, in presenting SA of a unit, developers had provided in sales brochures a breakdown of the area such as balconies and bay windows. Buyers could take out or retain the areas of those features when calculating the per square foot price or the "efficiency ratio" of a unit.

20. Mr Patrick POON of EAA re-iterated that a major function of EAA was to regulate the professional conduct of estate agents. EAA in collaboration with CC had issued a consumer checklist in mid 2006 reminding property purchasers of the need to, amongst others, pay particular attention to sales descriptions including SA and GFA in the sales brochures. If developers did not provide the price per square

foot of SA, then either estate agents or buyers would have to do their own calculation. It was the role of estate agents to clearly explain the calculation of per square foot price of the property to prospective buyers. In this connection, EAA expected the estate agents to provide such information clearly when so requested by consumers. However, this information should preferably come from developers instead of worked out by estate agents through their own calculation.

21. Pointing out that every unit would have different sale price depending on the floor level and the orientation of the unit, Mr Abraham SHEK remarked that as the sales brochures had already provided information on GFA and SA, buyers should have an idea on the efficiency ratio of the units. He also expressed support for HKIS's proposal to revise the Code and adopt the term "saleable area" in sales brochures. Sharing the view that the sales price and per square foot price of different units of a development would be complicated by variations in the floor level and the orientation, Dr Patrick LAU said that the use of different terms would further confuse buyers. He supported using SA as the standard term and suggested that GFA should no longer be used to avoid confusion as "usable area" and GFA had different meanings in the context of the Buildings Ordinance (Cap. 123).

22. Mr Raymond CHAN of HKIS raised concern about the difficulty in calculating the per square foot price of SA. He said that complicated issues would be involved, for instance, the per square foot price of Type A and Type B SA would be different, and the per square foot price for different facilities would also be different as a front yard and a back garden would have different values depending on the direction and views.

23. Mr LEUNG Kwok-hung expressed disappointment on the failure of the Administration to regulate the sale of first-hand private residential properties. Pointing out that the calculation on the per square foot price of residential development was simple and straightforward, he suggested that the Administration should do the calculation and the information should be published by CC for consumers.

24. In response, PSH explained that on the basis of an agreed definition of SA and a standard method of calculation, the per square foot price of SA could be easily worked out. The Administration would discuss further with REDA the suggestion of providing information on per square foot price'.

The need to introduce legislation to govern the sale of uncompleted first-hand residential properties

25. To ensure full compliance by developers, Mr James TO highlighted the need to enact legislation on sales description for residential properties and sought REDA's views on the adoption of a legislative approach for regulating developers.

26. Miss CHAN Yuen-han said that there was general public concern about the effectiveness of self-regulation by any industry as demonstrated in the case of the tourism industry and the medical sector. Given that property transactions had

wide social impact on the public's livelihood, Miss CHAN maintained that there was a case for the Government to regulate the sales arrangements of residential properties by legislation. Pointing out that the Administration had published the Sales Descriptions of Uncompleted Residential Properties Bill as a White Bill (the White Bill) in April 2000 to govern the provision of sales information for enhancing protection of consumers, Miss CHAN enquired under what circumstances the Government would consider reviving the legislative approach in regulating the private property market.

27. In response, Mr Stewart LEUNG of REDA said that REDA had put in place the self-regulatory regime to enhance the transparency of property sales information and continued to identify room for improvement to address public concerns. REDA had been maintaining regular contacts with the Administration, EAA, and CC to improve REDA's guidelines in ensuring the provision of adequate and accurate sales information to purchasers. He emphasized that the efforts of REDA had led to improvement in sales arrangements for uncompleted first-hand residential properties. Recently, REDA had put forward an initiative to set up the Compliance Committee for handling complaints against developers relating to sale of residential properties. While the majority of the cases received were unsubstantiated, some complaints had led to corrective measures that had further improved the REDA's regulatory regime.

28. On members' proposal for introducing legislation to regulate the sale of uncompleted first-hand residential properties, PSH said that REDA's self-regulatory regime had been running smoothly and the number of relevant complaints had remained steady. He assured members that the Administration would not rule out the possibility of introducing more stringent administrative or legislative measures to enhance market transparency in the sale of uncompleted residential properties if the situation so warranted.

29. Dr KWOK Ka-ki regretted that despite years of discussion, many issues relating to the sale of uncompleted residential units remained unresolved. He expressed grave concern about ineffectiveness of REDA's self regulatory regime, developers' malpractices including provision of inaccurate and misleading sales information as well as different price lists, and problems concerning confusing definitions and calculation methods on floor areas for units. He was disappointed that despite the publication of the White Bill for public consultation in 2000, the Administration had not introduced the Bill into the Legislative Council. Referring to media reports on the great discrepancy between SA and GFA, Dr KWOK said that the malpractices and crooked means adopted by unscrupulous developers to cheat the public were deplorable. He considered that the Government had not taken adequate steps to protect the interests of property buyers to whom property purchase was the biggest investment in their lives. He enquired whether the Administration would reconsider the legislative approach and the criteria to be considered in deciding whether the situation in the property market would warrant the introduction of legislation.

30. Mr Stewart LEUNG of REDA raised a strong protest against Dr KWOK Ka-ki's remarks that developers had resorted to crooked means to cheat property buyers. He said that such sweeping allegations and serious accusations should not have been made unless they were substantiated. In this regard, Mr Abraham SHEK added that any criticisms should be substantiated with facts.

31. Mr Albert CHAN expressed similar disappointment and concurred that the Administration had bowed to the pressure of developers for not adopting a legislative approach in regulating the sale of private residential properties. As not all developers were members of REDA, REDA's ability to regulate developers who were non-REDA members was questionable. Mr CHAN was concerned that even if a consensus could be reached by all parties concerned on the definition of SA and the calculation method, the measure would be non-statutory. As buyers very often lacked the financial means to protect their rights in property transactions and were not eligible for legal aid, it was irresponsible of the Administration to advise buyers to take legal action against developers on their own. To protect property buyers' interests, it was the Government's responsibility to regulate by way of legislation against malpractices and misconduct of developers.

32. Referring to the sales brochures of three private residential property developments obtained from developers through the concerned Government departments, the Chairman pointed out that none of the sales brochures specified the per square foot price of SA. Though one of the sales brochures set out the area of the balcony, bay window and auxiliary facilities, the per square foot price of SA of a particular unit was not provided in the price list which was set out in loose sheets. Sharing members' views, the Chairman considered that a legislative approach was desirable. As the sale of uncompleted flats was different from second hand properties where actual house inspection was possible, enhanced protection for buyers was thus warranted. Sharing Mr Steven POON's views that there should not be any insurmountable difficulty in working out SA of each unit and calculating the per square foot price, the Chairman asked if the Administration would consider requiring developers to provide the per square foot price of SA in the advertisement of the concerned properties, and to specify per square foot price of SA and GFA of each unit in the price list as well as in the provisional ASP. Pointing out that the situation remained unsatisfactory despite talks of improvement measures since November 2006, the Chairman said it was high time for conducting a review on the existing mechanism to ensure accurate sales descriptions as well as fair and reasonable sales arrangements for uncompleted residential properties.

33. In response, PSH said that the purpose of the discussion was to seek the views of the Panel and concerned parties on the improvement measures to further enhance the transparency of sales descriptions and related sales information. It was hoped that with a consensus on the definition of SA and on the method of calculation acceptable by all, the same could be included as a requirement in LACO's Consent Scheme, in ASP, and also in REDA's guidelines to enhance transparency and ensure uniformity and consistency of information in sales descriptions. The Administration would ask REDA to consider requiring developers to specify the per square foot price of SA of each unit in the price list.

The Administration would also explore, in conjunction with REDA, the viability of including SA information in the provisional ASP. He pointed out that developer's non-compliance with the requirements of the Consent Scheme would entail serious consequences and sanctions would be imposed on the developers. PSH pointed out that the legislative approach had wide implications involving a number of issues. He reiterated that a consensus on the definition of SA and standard method of measurement would serve to enhance transparency, consistency and clarity of floor area information in sales descriptions. He assured members that the Government would not rule out legislative means to reinforce control over developers' sales arrangements of uncompleted residential properties should the existing mechanism prove ineffective in achieving the expected result.

34. Mr Stewart LEUNG of REDA said that the developers had included all the information required in the sales brochures submitted to the Government, CC and REDA before putting up residential properties for sale. He added that in some cases, the loose sheets were not issued by developers but by estate agents as their sale tactics.

35. Mr Steven POON of EAA emphasized that EAA would not tolerate any malpractice of estate agency practitioners and would spare no effort in conducting investigation into any suspected cases. He said that disciplinary proceedings would be instigated to sanction any substantiated misconduct by estate agents, including issuing false price list or publishing misleading or inaccurate information.

Motion passed at the meeting

36. In view of the impact of property transactions on the public's livelihood and the malpractices of some developers to "inflate" floor area of units for making profits by including common areas and auxiliary facilities in the calculation of per square foot price, Mr James TO said that for consumer protection, the current situation warranted legislative control. He moved the following motion:

"本委員會要求政府重新展開《未建成住宅物業銷售說明白紙草案》的討論及以此為基礎立法規管銷售說明的安排。"

(Translation)

"That this Panel requests the Administration to reopen the discussion on the Sales Descriptions of Uncompleted Residential Properties White Bill and, on the basis of the relevant discussion, to legislate on the arrangements of sales descriptions for residential properties."

37. Mr Albert HO supported the motion and stressed the need to enact legislation to govern the sale of uncompleted first-hand residential properties and to sanction the misconduct of unscrupulous developers. He maintained that for consumer protection, legal backing to an agreed definition of SA, provision under the Consent Scheme requiring developers to specify in the sales brochures and price list the per square foot price of SA based on a standard method of measurement,

would help reduce misunderstanding and disputes and would better safeguard buyers' interests. He said that although the majority of developers were law-abiding, there existed a few unscrupulous developers who would abuse the loopholes for profits. As such, he said that regulation by legislation would stamp out the malpractice of these unscrupulous developers, thereby protecting the good reputation of the majority law-abiding developers.

38. Mr Albert CHAN pointed out that as the sales brochures were not legal documents and the information contained therein was "for reference only" and was not binding on developers, property buyers could not seek compensation or pursue contractual remedies for any misleading information provided in the sales brochures. Referring to a number of cases in which the promised sea views were blocked and the claimed short distance from MTR stations was misleading, Mr CHAN reiterated the need to make all sales brochures legally binding to protect buyers against abuse by the non-compliant unscrupulous developers.

39. Dr KWOK Ka-ki echoed that legislative control was the best solution. Given that the majority of developers were law-abiding, they should have no cause for worry with the introduction of legislation. He asked whether the Administration would consider enacting legislation to regulate the sale of first-hand residential properties if all parties concerned except REDA supported such a move.

40. In response, PSH reiterated that a clear consensus on a definition on SA and a standardized calculation method by all parties concerned would help dispel misunderstanding and plug any possible loopholes that could allow misleading information to creep in. He believed that a consensus by EAA, CC and HKIS from their professional perspectives would be acceptable to REDA. For any uncompleted units governed by the Consent Scheme, the Lands Department could suspend or withdraw the pre-sale consent in the event of non-compliance by developers. He opined that present circumstances did not warrant legislative control and there was no compelling justification to introduce legislation at the moment. He believed that with close liaison and cooperation among all parties concerned, a common ground could be attained to solve the problems. He assured members that the Administration would take prompt and appropriate actions, including introducing administrative or legislative measures to improve the existing mechanism if necessary.

41. Mr Stewart LEUNG of REDA emphasized that close cooperation and communication with CC and EAA had improved the situation. He reiterated that REDA's members were willing to cooperate and comply with the guidelines. REDA had all along been responsive to complaints referred by CC and other relevant authorities, and a complaint mechanism had been put in place for the Compliance Committee to investigate suspected cases of malpractices of developers.

42. Sharing the view, Mr Abraham SHEK opined that REDA's self-regulatory mechanism had been operating effectively and there were few cases of non-compliance by developers. Moreover, the industry together with the

Administration, HKIS, EAA and CC had been actively identifying room for improvement and initiated a number of measures to enhance transparency and strengthen consumer protection in the property market. As such, he saw no need to introduce legislation to regulate the sale of uncompleted first-hand residential properties.

43. The Chairman put the motion moved by Mr James TO to vote. Of the members present, seven members voted in favour of the motion and two voted against. The Chairman declared the motion passed.

(Post-meeting note: The Administration's reply to the motion passed was circulated to members vide LC Paper No. CB(1)1466/06-07 on 27 April 2007)

44. Summing up, the Chairman urged the Administration and REDA to consider views and suggestions made by members at the meeting to regulate property transactions and the sales arrangements for uncompleted first-hand residential properties for the protection of property buyers.

V Any other business

45. There being no other business, the meeting ended at 4:30 pm.