

立法會

Legislative Council

LC Paper No. CB(1)1658/07-08

(These minutes have been seen
by the Administration)

Ref : CB1/PL/HG/1

Panel on Housing

Minutes of meeting

**held on Monday, 3 March 2008, at 2:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon LEE Wing-tat (Chairman)
Hon WONG Kwok-hing, MH (Deputy Chairman)
Hon Fred LI Wah-ming, JP
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Dr Hon YEUNG Sum, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
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 absent** : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Yuen-han, SBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon LI Kwok-ying, MH, JP
- Public officers attending** : Agenda Item IV
Mr Thomas C Y CHAN, JP
Permanent Secretary for Transport and Housing
(Housing)

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

Mr Andrew TSANG
Acting Principal Assistant Secretary for Transport and
Housing (Private Housing)

Agenda Item V

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

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

Miss Louisa YAN
Acting Assistant Director (Strategic Planning)
Housing Department

Agenda Item VI

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

Miss Rosaline WONG Lai-ping
Acting Assistant Director (Housing Subsidies)
Housing Department

**Attendance by
invitation**

: Agenda Item IV

The Hong Kong Institute of Surveyors

Mr Stephen YIP
Vice-President

Dr Lawrence POON
Chairman, General Practice Division Council

The Real Estate Developers Association of Hong Kong

Mr Stewart LEUNG
Vice Chairman, Executive Committee

Mr Louis LOONG
Secretary General

Mr Tony TSE
Representative

Mr Emmanuel YIP
Representative

Mr Franky TSE
Representative

Mr Wilson WONG
Representative

Mr Wilson CHAN
Representative

Mr Derek CHUNG
Representative

Mr Ricky WONG
Representative

Miss Wendy HO
Representative

Consumer Council

Ms Connie LAU
Chief Executive

Ms Vera TAM
Chief Research & Trade Practices Officer

Estate Agents Authority

Ms Sandy CHAN
Chief Executive Officer

Ms Eva LAU
Acting Director of Regulatory Affairs & General
Counsel

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

Staff in attendance : 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)896/07-08 -- Minutes of meeting on
3 December 2007)

The minutes of the meeting held on 3 December 2007 were confirmed.

II Information paper issued since last meeting

(LC Paper No. CB(1)782/07-08(01) -- Administration's paper on Land
Registry statistics in January
2008 (press release))

2. Members noted that the above information paper had been issued since the last regular meeting held on 4 February 2008.

III Items for discussion at the next meeting

(LC Paper No. CB(1)905/07-08(01) -- List of outstanding items for
discussion

LC Paper No. CB(1)905/07-08(02) -- List of follow-up actions)

3. Members agreed to discuss the item on "Review of the Total Maintenance Scheme" proposed by the Administration, and the item on "The utilization of the Housing for Senior Citizens and improvement measures" proposed by Mr WONG Kwok-hing at the next regular meeting to be held on Tuesday, 8 April 2008, at 4:30 pm.

IV Disclosure of saleable area in sales descriptions for residential properties

(LC Paper No. CB(1)905/07-08(03) -- Submission from Hong Kong
Institute of Surveyors

LC Paper No. CB(1)905/07-08(04) - Administration's paper on
disclosure of saleable area in
sales descriptions for residential
properties

LC Paper No. CB(1)905/07-08(05) - Paper on disclosure of saleable area in sales description for residential properties prepared by the Legislative Council Secretariat (Background brief)

Meeting with the Administration and deputations

Presentation by the Administration

4. The Permanent Secretary for Transport and Housing (Housing) (PSH) briefed members on the Administration's paper. He pointed out that the Administration had been adopting a multi-pronged approach to enhance the transparency of floor area information in sales descriptions for first-hand residential properties, including the operation of a flexible self-regulatory regime by The Real Estate Developers Association of Hong Kong (REDA). Under the existing mechanism, a balance had been struck between protecting consumers' interests and maintaining a free business environment. Notwithstanding, in recognition of the importance of providing clear and comprehensive floor area information to prospective flat purchasers, the Administration had been examining in conjunction with relevant parties ways to enhance the presentation of floor area (including saleable area (SA)) information in sales descriptions since the subject was last discussed at the Panel meeting on 17 July 2007. The respective developments had been set out in the paper.

5. As regards the review of The Hong Kong Institute of Surveyors (HKIS)'s Code of Measuring Practice (the Code), PSH said that HKIS had recently completed the review and consultations on the Code and announced the result in early February 2008. The Government was studying the review result and its possible implications. The Lands Department (Lands D) had also commenced a study to ascertain whether it was necessary to review or amend the relevant provisions of its Consent Scheme. The Administration would discuss with relevant parties if the results of the above studies indicated a need to change the current arrangements. PSH added that a meeting among the Administration, REDA, the Consumer Council (CC) and the Estate Agents Authority (EAA) had been held to exchange views. All parties generally agreed that a clear and standardized presentation of floor area information would be beneficial to consumers'. The Administration would continue to explore, in conjunction with relevant parties, including REDA, CC and EAA, feasible measures to achieve the aim to arrive at a standardized and transparent presentation. The Administration would also examine the possible implications arising from such measures.

Presentation by The Hong Kong Institute of Surveyors

6. Dr Lawrence POON, Chairman, General Practice Division Council, HKIS, briefed members on HKIS's submission. Members noted that HKIS had held a

series of meetings with representatives of relevant Government departments, the Hong Kong Housing Society (HKHS), the Urban Renewal Authority (URA) as well as REDA and surveying firms to understand their practices in measuring and presenting SA information and the likely implications on the practices if the Code was revised. At the meetings, representatives from all relevant Government departments, HKHS, URA and surveying firms had confirmed that they basically followed the Code in their practices, and the ancillary area of a unit would be separately measured and stated. HKIS had therefore reached the conclusion that it would not be necessary to amend the Code for the time being, and endorsed the issue on 5 February 2008 of a supplement entitled "Supplement to the Code of Measuring Practice" (the Supplement) to provide supplementary clarification to the Code. The Supplement mainly spelt out that SA should not include Ancillary Accommodation (AA) items, and set out the way of measuring the areas of different items of AA.

Presentation by The Real Estate Developers Association of Hong Kong

7. At the Chairman's invitation, Mr Stewart LEUNG, Vice Chairman of the Executive Committee of REDA, made the following points:

- (a) ***There was a need for more comprehensive consultation on the measurement of SA.*** REDA had met with HKIS twice since the item was last discussed at the Panel meeting on 17 July 2007, and urged HKIS to consult the Hong Kong Institute of Architects (HKIA) and the Law Society of Hong Kong (LSHK) on their interpretation of SA having regard that the two organizations were respectively involved in working out SA information in residential development and handling property transactions. However HKIS had not done so on grounds that it had subsequently decided not to amend the Code. Noting that any change of the current market practice in the presentation of SA would have implications on the relevant parties, including estate agents who had the duty to explain such change to the prospective purchasers, REDA believed that thorough consultation with all stakeholders was paramount and they would take the initiative to approach HKIA and LSHK to understand their stances on the matter. After soliciting the views of HKIA and LSHK, REDA would follow up with HKIS and CC, and would consider introducing changes where necessary to bring real improvement to information provided in sales descriptions.
- (b) ***The adoption of a standardized Chinese translation for the term "SA" was necessary.*** It was REDA's understanding that agreement was reached at the Panel meeting on 17 July 2007 to adopt the term "銷售面積" instead of "實用面積" as the Chinese translation of SA because the former translation could better reflect the meaning of "saleable area" while the latter translation literally meant "the area which a flat purchaser could actually use". The adoption of "銷售面

積" could help avoid misunderstanding as flat purchasers would have a clear idea of what areas were being sold to them. In fact, the variance between the Gross Floor Area (GFA) and SA of units was usually less than 20%. Moreover, all items included in SA and hence "saleable" to flat purchasers, such as the areas of balconies, bay windows, common areas, utility platforms, etc. were clearly listed out in sales descriptions. The inclusion of such items in SA was a long-established practice of developers and was fair to flat purchasers because, apart from the common areas apportioned, all other such items were for the exclusive use of the purchasers.

- (c) ***REDA was always ready to make improvements.*** REDA had been maintaining continuous dialogue with CC and EAA to introduce improvements on sales arrangements for residential properties where necessary. REDA had also willingly exchanged views with HKIS on its proposal regarding "bay window" and "balcony". REDA had already made clear to all relevant parties that it would be glad to implement any proposal which could bring real improvement to the measurement and presentation of SA.

Presentation by the Consumer Council

8. At the Chairman's invitation, Ms Connie LAU, Chief Executive of CC, said that CC supported the provision of a clear and uniform definition of floor area to enhance market transparency, especially in sales descriptions for first-hand residential properties, as flat purchase was often the biggest investment in people's lives and hence consistency and accuracy of sales descriptions should be enhanced to enable consumers to make informed decisions. Flat buyers however were often confused by the use of different terms and measurement methods for flat area during different stages of a property transaction, such as the disclosure of property information in advertisements and sales brochures, the signing of the Agreement for Sale and Purchase, and valuation for the property when arranging mortgage. Moreover, the demonstration units set up by developers would not help because they would not cover all flat sizes of a property development. Some such units might even be decorated in such a way that flat purchasers might be misled into believing that the sizes of the flats were larger.

Presentation by the Estate Agents Authority

9. Upon invitation by the Chairman, Ms Sandy CHAN, Chief Executive Officer of EAA, said that EAA was aware of the diverse views of different parties on the inclusion of items under the measurement of SA. It had also raised the matter with certain concerned estate agencies. Both EAA and the trade would welcome an early consensus by the relevant parties on the matter to facilitate the work of estate agencies and to better protect consumers' interests. Should a consensus be reached, EAA was prepared to issue new practice circulars to facilitate estate agents' understanding of the agreed measurement method, and to provide appropriate training to estate agents where necessary to help them explain

floor area information and other property information to prospective buyers more accurately and more clearly.

Discussion

Use of "銷售面積" versus "實用面積" as the Chinese translation of "saleable area"

10. The Chairman referred to REDA's claim regarding the agreement to use "銷售面積" in place of "實用面積" as the proper translation for the term SA, and asked REDA and HKIS for elaboration on the matter. In response, Mr Stewart LEUNG of REDA pointed out that the term "銷售面積" had in fact been proposed by HKIS. Mr Stephen YIP, Vice-President of HKIS, explained that the use of the terms "SA" and "實用面積" could be traced back to November 1985, when HKIS, CC and the Hong Kong Branch of the UK Royal Institution of Chartered Surveyors together published a booklet entitled "Saleable Area" and in Chinese "實用面積". The relevant concepts of SA and how it should be measured and stated had since remained unchanged where HKIS was concerned. In the January 1994 version of the above booklet, HKIS had also continued to use the terms "SA" and "實用面積". It was only in the Code, which was published in March 1999 and contained terms used in property transactions including GFA and Internal Floor Area (IFA), that the Chinese term "銷售面積" was used interchangeably with "實用面積" and presented as "「實用面積」(或稱「銷售面積」)" in the Chinese translation of the Code. In spite of the different Chinese translations used for the term "SA", its definition was consistent in the three publications mentioned above. HKIS would like to apologize for confusion, if any, caused to consumers in using the above two Chinese terms interchangeably. It was suggested that reference be made to the English term "SA" in the ensuing discussion.

11. Mr WONG Kwok-hing agreed that it was necessary to provide a clear and uniform definition of floor area for residential properties to enhance market transparency. However, having regard that the term "實用面積" had long been used as the Chinese translation of the term "SA", he did not agree that the translation of "SA" should be changed to "銷售面積" in future.

12. Mr James TO questioned whether there was really a consensus among all relevant parties to replace "實用面積" with "銷售面積" as the Chinese translation of SA, and whether CC agreed that the above change would enhance protection to consumers. Mr TO considered that the best protection for property buyers was to ensure they understood what they were buying. He sought the Administration's views as to whether the present situation in this regard was satisfactory, and whether it would consider making further improvement.

13. On the concern about the use of "實用面積" and "銷售面積", Ms Connie LAU of CC said that agreement had in fact been reached among various professional institutions and government departments in 1985 to use "實用面積" as the Chinese translation for SA. While there was a proposal to replace the term "實

用面積" by "銷售面積", there had been no further discussion on whether the proposal should be adopted by all parties at the Panel meeting on 17 July 2007. In CC's view, the most important thing was to ensure the provision of a clear and uniform definition of floor area in every stage of a property transaction to enable consumers to make informed purchase decisions. CC believed that a consistent and clear definition of terms was most important. PSH shared CC's view on the need for a clear and uniform definition of floor area, and recapitulated that the Administration was exploring, in conjunction with relevant parties, feasible measures in this direction taking into account possible implications of the measures. In this regard, Dr Lawrence POON of HKIS supplemented that both "實用面積" and "銷售面積" were used in the Chinese version of the Code. HKIS had no intention to amend the Code to use the term "銷售面積" only.

14. Prof Patrick LAU pointed out that the crux of problems relating to sales descriptions of residential properties stemmed from the use of different terms in describing flat area, which would confuse buyers. Where professional architects were concerned, the most important thing was to work according to the General Building Plan as approved by the Buildings Department, and to suitably apportion to each unit on a pro-rata basis the common areas to be included in GFA according to the Buildings Ordinance (Cap. 123). As to HKIS, it should ensure that professional surveyors would follow the Code in conducting valuation in property transactions. As for property buyers, their concern would be more on the IFA of a unit in consideration that ensuring buyers to have a clear understanding of what they were buying would be the best way to protect their interests. Prof LAU was of the view that concerns about the accuracy of information in sales descriptions could be addressed by adopting the term "銷售面積" as the standard translation of "SA" in future, and ensuring "SA" would only comprise the floor area of a unit for exclusive use of the buyer concerned, and would exclude common areas such as staircases, lift shafts, lobbies and communal toilets, etc. Moreover, developers should ensure that the terms "SA" and "銷售面積" would be consistently used in all sales materials.

15. Mr Stephen YIP of HKIS stressed that regardless of the Chinese term to be adopted, relevant professionals including members of HKIS had a clear idea of the concept of "SA" and its component items. Consumers however might have different interpretations of "實用面積" and "銷售面積" and hence confusion might arise. As such, he agreed that there might be a need to standardize the term and its meaning in future to achieve consistency and clarity in all sales information in the market, and promote understanding by the general public. While it remained an issue of debate as to whether the concept of floor area statement adopted by REDA or HKIS was more preferable, HKIS had since 1985 been following the measuring practice as set out in the Code, and had made improvements as necessary to remove any grey or unclear areas created by the evolution of new building technologies and terminologies. HKIS was also ready to provide its expert views on floor area calculation and presentation where necessary.

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

16. In recognition that purchase of residential properties was the biggest investment in people's lives, Dr YEUNG Sum considered REDA's self-regulatory regime insufficient, and stressed the need to put in place as soon as practicable statutory measures for governing the sale of first-hand residential properties to protect the interests of buyers. As such, he enquired whether the Administration would consider regulating the calculation and presentation of floor areas of residential units, so that enforcement against misrepresentations of sales information could be taken.

17. In response, PSH re-iterated that to enhance protection for property buyers, the Administration had been adopting a multi-pronged approach including requirements for developers under the Consent Scheme, consumer education, regulation of the professional conduct of estate agents, and self-regulation by REDA. The decline in complaint cases handled by the Administration in the past year had demonstrated that the measures had contributed to the provision of necessary sales information to consumers. Moreover, according to REDA's guidelines, prior to the dissemination of sales descriptions of residential properties, the materials were required to be submitted to the Administration for monitoring purpose. Members of REDA were also required to provide an independent auditor's report to REDA certifying that the documentation was in order and that the sales arrangements were in compliance with REDA's guidelines. The Administration therefore did not see the need to introduce statutory measures at the present stage. However, if the situation so warranted, the Administration would not rule out the option of introducing more stringent administrative or legislative measures to enhance market transparency in the sale of residential properties.

18. Pointing out that the number of complaints relating to property transactions received by CC in 2007 had risen by 30% over that in 2006, Dr YEUNG Sum was unconvinced by the Administration's explanation. PSH explained that some of the complaints received by CC might concern malpractices of estate agents and might not be related to sale of uncompleted residential properties by developers. He added that as observed from relevant press reports, public concern was mainly on the treatment of bay windows. The Administration was exploring administrative measures to resolve problems in this regard. Adopting a legislative approach would take time and might not be a direct and effective way to resolve the problems.

19. Sharing Dr YEUNG Sum's concern, Mr LEUNG Yiu-chung stressed that all complaints about the disclosure of sales information for residential properties regardless of whether they were directed at developers or estate agents, should be handled seriously. Moreover, long-existed problems relating to disclosure of information in sales descriptions, particularly those concerning bay windows, should be tackled with no further delay so as to enhance protection for flat purchasers. He questioned the Administration's hesitant attitude in adopting a legislative approach to regulate sales descriptions for residential properties,

pointing out that although the approach might take time, the Administration should take the matter forward as a long-term measure to address the problems while taking short-term measures including strengthening consumer education and publicity efforts. He further opined that the Administration should assess the pros and cons of the legislative approach for public consultation.

20. In reply, PSH said that while the need for introducing legislation would be monitored as a long-term endeavour, the Administration would work out, in conjunction with the relevant parties, effective measures to tackle promptly problems relating to the disclosure of information in sales descriptions as and when they arose to effect timely protection to flat purchasers. As far as bay windows were concerned, it was only in early 2008 that HKIS had completed the review of the Code.

21. Mr Alan LEONG pointed out that the legislative approach for regulating the sale of uncompleted first-hand residential properties could be easily introduced by making the Code statutory. Given that REDA's self-regulatory regime had proven ineffective in protecting property buyers, he considered that the Administration should not delay taking forward the legislative approach in order to put an early check on developers' malpractices. Mr LEUNG further expressed support for adopting a standardized definition and measurement method for floor area by all relevant parties so as to enhance the consistency and accuracy of information in sales descriptions to enable consumers to make informed purchase decisions. He considered that such a move would not affect the business environment.

22. Mr LEUNG Kwok-hung considered that the Administration had the responsibility to address property purchasers' concern and grievances about inconsistent and inaccurate information provided in sales descriptions for residential properties, and stressed the importance of ensuring property purchasers would be provided with floor area information so that they could clearly understand the efficiency ratio of a unit and hence compare the prices of different units. Pointing out that the problems relating to the disclosure of floor area information in sales descriptions should be addressed at root by regulating developers in the first place rather than just strengthening consumer education and reminding flat purchasers to exercise care in property transactions, Mr LEUNG echoed members' view about the need for the Administration to introduce legislative measures to govern the sales of first-hand residential properties and ensure developers would comply with the Code. He therefore urged the Administration to take immediate action to follow up HKIS's review result on the Code.

23. PSH explained that the sale of uncompleted residential properties was currently governed by the Consent Scheme, which contained requirements on developers to disclose floor area information in the sales descriptions of individual units in a development. He re-iterated that the Administration had been exploring, in conjunction with relevant parties, feasible measures to further enhance transparency in floor area information and this would continue to be the Administration's main focus of work in the future. He added that Lands D had

already commenced a study to ascertain whether it was necessary to review or amend the relevant provisions of the Consent Scheme. If the results of the study indicated a need to change the current arrangements, the Administration would discuss the implications with the relevant parties. As regards the status of the Code, PSH said that as he understood, the Code served as a guide to professional surveyors in measuring floor area of premises for property transaction and related purposes. As the measurement method of SA was issued as guidelines by HKIS in 1985, the method might not have been adopted in all residential properties sold in the market. If the Code was to be made statutory, it would be necessary to examine the implications on properties which were sold in the past twenty years but had not followed strictly the measurement method in the Code. In this regard, Mr Alan LEONG commented that the above concern only involved technical issues and could be addressed during the legislative process.

24. On the matter of introducing legislation to regulate the disclosure of information in sales descriptions of residential properties, Mr Stewart LEUNG of REDA stressed the importance of examining possible implications first, and called upon members to give REDA some time to sort out related issues highlighted at this meeting. He further highlighted the following points:

- (a) HKIS and REDA had adopted similar method in the measurement of bay windows although it was HKIS's view that the area of bay windows should be excluded from the SA of a unit while REDA's view was that it should be included under SA;
- (b) REDA had been co-operating with CC in improving the provision of sales information for residential properties, and had been stepping up efforts to handle relevant complaints. CC's concerns highlighted in its presentation had never been conveyed to REDA until at this meeting. In fact, members of REDA had always endeavoured to respond to flat purchasers' demand although there were occasions that some purchasers had made very unreasonable requests. Moreover, REDA had only received about ten complaints referred by CC from 2006 to 2007, which concerned minor problems and follow-up actions had been taken to rectify the situation. There was a need for CC to categorize the complaints it had received and clarify the correct number of complaints which were directed at developers; and
- (c) REDA had conveyed its support for HKIS's proposal to use "銷售面積" as the Chinese term of SA via its letter dated 19 March 2007 addressed to Mr Raymond CHAN, the former President of HKIS, and would advise REDA's members to adopt the term in sales descriptions. REDA concurred that consistent use of this Chinese term would help clarify floor area information in sales descriptions to minimize misunderstanding and hence complaints from flat purchasers.

25. The Chairman saw a need for the Administration to adopt a more effective regulatory regime than self-regulation by REDA for governing disclosure of sales information for residential properties to ensure the provision of consistent, clear, and comprehensible information in sales descriptions to flat purchasers. He was disappointed that despite active follow-up by the Panel for more than a year, little improvements had been made in this area. For instance, it was noticed that important information was still provided in small font size in sales brochures of some developments, not all sales brochures had adopted the term "銷售面積" in describing floor area of units as claimed by Mr Stewart LEUNG, and inconsistent terms were found in sales brochures. He pointed out that the introduction of statutory measures to regulate sales descriptions for residential properties could be taken forward easily by including compliance with the Code as a requirement of the Consent Scheme, so that the Government could withdraw the consent for the sale of the development and impose penalties on developers for breaching the Code.

26. In response, PSH re-iterated that Lands D had already commenced a study to ascertain whether it was necessary to review or amend the relevant provisions of its Consent Scheme. The Administration would discuss with relevant parties if the results of the study indicated a need to change the current arrangements.

The need for comprehensive consultation

27. Mr Abraham SHEK pointed out that sales brochures for residential developments in general already listed out clearly the GFA as well as the SA of individual units, including the respective areas of the component items of GFA and SA. He then questioned why HKIS had not discussed the Supplement with HKIA to work out a standardized SA measurement method acceptable to all relevant parties. Prof Patrick LAU also pointed out that since architects were responsible for the construction of property developments, they were the professionals in the best position to discuss issues relating to definition and measurement of floor area.

28. In reply, Mr Stephen YIP of HKIS stressed that members of HKIS were well aware of the concepts of different measurement terms and calculation methods for floor area of premises. A consistent measurement method of SA had been followed since 1985 by all HKIS members, who were responsible for conducting most of the property valuation work in Hong Kong. The measurement method of bay windows as specified in the Supplement had been adopted not only by HKIS but also in mortgage documentation prepared by financial institutions providing mortgage loans, as well as the data-base on secondary market properties maintained by the Rating and Valuation Department which was accessible by the public. Given that architects were generally not involved in the measurement of floor area for units in property transactions, and the Code and the Supplement were all internal guidelines for HKIS members, architects' comments on the matter might not be essential. Nonetheless, Mr YIP took note of members' view on the need to consult HKIA and LSHK on the measurement method of SA. He believed that comments from the two bodies, if any, would not lead to any significant amendment to either the Code or the Supplement.

29. Mr Abraham SHEK maintained that HKIA should be consulted on the Supplement because it would affect the preparation of the assignment plans by architects. In response, Mr Stephen YIP of HKIS said that HKIS had considered the concern relating to the preparation of assignment plans in the review of the Code. He further explained that neither the Code nor the Supplement sought to exclude any components that made up the GFA of a unit. The Code specified the respective items to be included under SA and AA, and illustrated how the SA and the AA of different premises should be measured. The Supplement clarified that items specified under AA should not be included under SA, and AA items had to be measured and stated separately. Although bay windows would be excluded from the measurement and statement of SA, they would be presented in sales descriptions under AA. Mr Stewart LEUNG of REDA nonetheless emphasized the need to give regard to the views of all relevant parties including REDA and HKIA before applying the Supplement to all. In particular, there was a need to listen to REDA's views because property developers as practitioners knew the market better than any party.

Building height information in sales descriptions

30. Mr WONG Kwok-hing highlighted a complaint relating to building height in a property development in Tung Chung being handled by CC, in which the property buyers had been misled by the developer concerned where the promised sea view of flats was blocked by a much higher block in the same development. In supporting CC's endeavour to enhance consumer protection, Mr WONG called for the provision of a clear and uniform definition of building height in sales descriptions. Moreover, he added that the deliberate presentation of essential sales information, such as disclaimers, in small print in sales descriptions was also a long-standing problem to be rectified.

31. In response, Ms Connie LAU of CC said that CC was processing the complaint highlighted above and would explore ways to address the concerns in sales descriptions. She further reported that CC had just released its report on the review of existing measures to protect consumer rights in Hong Kong, which recommended enacting a comprehensive trade practices statute to regulate unfair trade practices covering all consumer goods and services in Hong Kong, including advertising and promotional materials in the sale of private residential properties such as the sales descriptions of property developments.

Complaints regarding commercial premises

32. Mr James TO highlighted a complaint regarding commercial premises, where the ground of half of the unit concerned was raised by four feet because of water pipes embedded below and the ceiling height of the unit was also reduced as water pipes were installed across the ceiling. He queried whether such a layout was permissible according to the Code. Dr Lawrence POON of HKIS advised that according to the Code, it was the responsibility of a surveyor to highlight in the surveying report any anomalies in floor area or floor height which he had noticed when measuring a unit. Mr Stephen YIP of HKIS added that HKIS had always

reminded its members to use their expertise in the best endeavour to serve clients and consumers professionally and ethically.

33. Mr LEUNG Yiu-chung highlighted the rise in complaints regarding the disclosure of sales descriptions for commercial premises, and urged relevant departments to address problems in this regard.

Concluding remarks

34. The Chairman pointed out that members were not satisfied with the present progress made in enhancing the presentation of floor area information in sales descriptions of residential properties, and requested the Administration to report back on the outcome of its study in this regard in due course. He then invited the deputations to take turns and make their concluding remarks.

REDA

35. Mr Stewart LEUNG of REDA explained that despite the discrepancy in the terms used to present floor area information as highlighted at this meeting, developers had a clear understanding of the terms and had been applying the terms consistently. In fact, REDA had already urged its members to standardize the presentation of floor area information. He then undertook to examine with all relevant parties on ways to ensure the measurement and statement of SA would be consistent, and to report back in due course.

36. Mr Stephen YIP of HKIS also indicated willingness to discuss with all relevant parties ways to improve the consistency and clarity of floor area information in sales descriptions. In this regard, he agreed that the necessary floor area information was in general available in sales brochures of property developments for HKIS members to work out the SA of individual units although the presentation methods in the sales brochures might not be the same as those in the Code.

37. Ms Connie LAU of CC re-iterated that it remained CC's stance that the provision of a clear and uniform definition of floor area was important to enhance market transparency. In fact, CC had as early as 2002 raised related issues with Lands D and called for improvement to ensure clarity in the definition of SA. CC was also committed to stepping up consumer education with a view to enhancing protection for property buyers, and also urged all parties to enhance their efforts in this regard.

38. Ms Sandy CHAN of EAA said that should there be a consensus on the calculation of floor area for residential units, EAA was prepared to issue new practice circulars to facilitate estate agents' understanding of the agreed measurement method and to highlight the need of compliance. She also pointed out that although on many occasions estate agents acted only on behalf of developers in the first-hand property market, they needed to explain to prospective buyers information on floor area and price of a property basing on facts so as to avoid misleading buyers. EAA would take necessary enforcement actions against

estate agents for making misrepresentations in relation to floor area information in accordance with existing legislation and EAA's Code of Ethics.

39. Summing up, the Chairman said that the Panel would continue to follow up the subject and would hold further discussion with relevant parties when a consensus on the calculation of floor area had been reached.

V Review of the Waiting List Income and Asset Limits for 2008/09

(LC Paper No. CB(1)905/07-08(06) - Administration's paper on review of the Waiting List Income and Asset Limits for 2008/09

LC Paper No. CB(1)976/07-08(01) -- Administration's paper on review of the Waiting List Income and Asset Limits for 2008/09 (power-point presentation materials))
(tabled at the meeting and subsequently issued via email on 4 March 2008)

Briefing by the Administration

40. PSH briefed members on the findings of the review (the Review) of the Waiting List (WL) income and asset limits for 2008-2009, which would be considered by the Housing Authority (HA)'s Subsidised Housing Committee (SHC) on 17 March 2008. Members noted that the overall income and asset limits for 2008-2009 would increase by an average of 5.5% and 3.1% respectively over those for 2007-2008. If the proposed limits were adopted, some 104 900 non-owner occupied households in the private sector would be eligible for public rental housing (PRH).

41. With the aid of power-point, the Acting Assistant Director of Housing (Strategic Planning) (AD of H(SP)) briefed members on the methodology for assessing the WL income and asset limits. Members noted that the WL income limits were derived using a "household expenditure" approach that comprised the housing and non-housing costs. The housing cost referred to the average expenditure a household required to rent a private accommodation with an average size comparable to a PRH unit. The non-housing cost was determined by the statistics from the most recent Household Expenditure Survey, which collected detailed information of the expenditure patterns and levels of different households. The findings were adjusted according to the latest movement in the Consumer Price Index (A) (CPI(A)) (excluding housing cost). The three main variables affecting the WL income and asset limits were hence the movement of the CPI(A), the private rentals and the size of the "reference flats". AD of H(SP) then explained the latest position of the key parameters for assessing the WL income and asset limits using figures of the latest quarter available (i.e. the fourth quarter of 2007 for housing expenditure and November 2007 to January 2008 for non-housing expenditure and asset limits), as well as the new income and asset limits derived for different household sizes in the light of the above parameters.

Discussion

Views on the proposed Waiting List income and assets limits for 2008-2009

42. Referring to the proposed WL income and asset limits, Mr WONG Kwok-hing enquired whether the limits for young people applying for PRH together with their elderly parents could be relaxed to encourage young people to look after their parents. In response, PSH and the Deputy Secretary for Transport and Housing (Housing) (DSH) pointed out that while the income limit for elderly and non-elderly PRH applicants were the same, with the asset limits for elderly households set at two times the limits for non-elderly applicants, their asset limits were already more lenient than those for normal WL applicants. Mr WONG however opined that the income limits should also be set at a level at least 50% higher. Sharing the view, the Chairman believed that raising the income limits by about 20% to 30% could already incentivize more young people to live with and take care of their parents. PSH agreed to convey members' views above to SHC for consideration.

43. While glad to note the proposed \$500 increase in the income limit for 1-person households, Mr LEUNG Yiu-chung found the average increase per person in the income limits for households of larger sizes, which ranged from \$140 to \$200 only, insufficient and uneven. In particular, the average increase per person in the income limit for 3-person households was smaller than that for 2-person households. This would be unreasonable because, with more persons in a household and hence likely more persons earning an income, the income limit for 3-person households should be correspondingly increased, or else the eligibility of these households for PRH would be unfairly affected. To enable members to understand the impacts of the proposed increases in income limits, he saw a need for the Administration to provide a breakdown of the household sizes of the additional 5 100 non-owner occupied households in the private sector which would become eligible for PRH if the proposed limits were adopted.

44. In reply, AD of H(SP) explained that the above uneven increases were probably the result of the equally uneven increases in both the housing and non-housing expenditure of different household sizes, which were the key parameters for assessing the WL income and asset limits. In general, families with larger household sizes were more able to gain economy of scale in household expenditure. She then referred members to page 1 of Annex B to the Annex of the Administration's paper, which provided a breakdown into 1-person and 2-person plus households of the 104 900 non-owner occupied households in the private sector which would be eligible for PRH. She however emphasized that the total number of households eligible for PRH might at the end be greater than 104 900 because households split from existing PRH tenants might also apply for PRH.

45. Pointing out that the per person non-housing expenditure for 6-person households seemed to be higher than that for 7-person households, Mr LEUNG Yiu-chung was not convinced of the Administration's explanation above and

remained concerned about the perceived unfairness arising from the uneven increases in the WL income limits for different household sizes. At members' request, AD of H(SP) agreed to revert to members if it was possible to provide a further breakdown into 2-person, 3-person, 4-person and so on of the number of 2-person plus non-owner occupied households in the private sector based on the proposed WL income and asset limits for 2008-2009.

(Post-meeting note: The information provided by the Administration was circulated to members vide LC Paper No. CB(1)1116/07-08 on 25 March 2008.)

46. Mr Frederick FUNG enquired how the average 3.1% increase in the asset limits for 2008-2009 had been worked out. In reply, AD of H(SP) referred members to paragraph 5(b) of the Annex to the Administration's paper, and explained that the WL asset limits for 2005-2006 were adopted as the basis for annual adjustments with reference to movements in CPI(A) over the year. As the overall CPI(A) was 102.8 during the period from November 2006 to January 2007 and that for the period from November 2007 to January 2008 was 106.0, the increase was 3.1%.

The waiting time for public rental housing

47. Mr Alan LEONG noted that if the proposed WL income and asset limits for 2008-2009 were adopted, some 104 900 non-owner occupied households in the private sector would be eligible for PRH, up 5 100 from the current 99 800 households. In reply to him and Mr LEUNG Kwok-hung on whether the increase would affect the waiting time for PRH and if so, the corresponding measures available, PSH said that the average waiting time for PRH (AWT), which was currently pledged at around three years, had already taken into account possible annual adjustments to the WL income and asset limits and hence changes in the number of eligible households for PRH.

48. In reply to the Chairman on the actual waiting time for PRH and whether it could be further reduced, PSH advised that the current AWT for general family applicants was only around two years, less than the Government's pledge of around three years.

Other views and concerns

49. The Chairman opined that the taking into account of only the differential unit rents of 1-person and 2-person private flats for assessing the WL income and asset limits might be misleading, as it was the rents of bedspace and cubicle apartments, which were excluded from the assessment, that had increased most significantly in recent years. Moreover, according to the Society for Community Organization, the rents for bedspace and cubicle apartments could reach \$290 per m² IFA as compared to the \$166 for 1-person household as quoted in the Administration's paper. In response, PSH agreed to examine whether the relevant statistics could be further improved.

50. Mr LEUNG Kwok-hung enquired about measures to help low-income people living in cubicle apartments who could not afford the sharp increase in rents with the removal of rent control. In this regard, he also asked whether the Government would consider reintroducing rent control to help the above people. In reply, PSH pointed out that in consideration of the large number of PRH applicants and resources constraints in the provision of subsidized housing, HA could only allocate PRH according to eligibility criteria including the WL income and asset limits. However, flexibility had already been exercised to cater for the need of one-person applicants, and despite the implementation of the quota and points system for WL non-elderly one-person applicants, these applicants were allowed to seek earlier allocation of PRH flats under the Express Flat Allocation Scheme. In fact, many of them had already been allocated PRH flats through this channel.

51. Mr LEUNG Kwok-hung, however, opined that if rent control was reintroduced, the plight of these single persons could be relieved without incurring additional public resources. In this regard, the Chairman reminded members that a special meeting had been scheduled for Monday, 10 March 2008, to discuss the subject on "Assistance to low-income persons in meeting their housing needs".

VI Strengthening directorate support in the Housing Department

(LC Paper No. CB(1)905/07-08(07) - Administration's paper on proposal to extend a supernumerary Chief Estate Surveyor Post in Housing Department for two years)

52. At the Chairman's invitation, DSH briefed members on the Administration's paper which sought their support for the proposal to extend (the extension) a supernumerary Chief Estate Surveyor (CES) (D1) post created from 7 July 2006 to 6 July 2008 in the Housing Department for two years up to 6 July 2010 for taking charge of the administration duties related to the transfer of legal titles for retail and car-parking facilities in PRH estates that HA had sold to The Link Real Estate Investment Trust (the divested properties), and the sale of surplus Home Ownership Scheme (HOS) and Private Sector Participation Scheme (PSPS) flats. DSH explained that the extension was necessary for two reasons. Firstly, due to unforeseen complications and new requirements of government departments, it was estimated that the lease procurement and title assignment programme for the divested properties would not be completed until early 2010 at the earliest. Secondly, professional estate surveying input at the directorate level was required for mapping out sale strategies and arrangements and supervising assessment of flat prices for the sale of surplus HOS and PSPS flats which was being carried out in phases to be completed in early 2010.

53. Dr YEUNG Sum enquired about the need to further extend the CES (D1) post beyond July 2010, and sought the Administration's undertaking not to seek

further extension for the post. In response, DSH advised that based on the existing known regulatory requirements and the experience in fulfilling them, the Administration's latest estimate was that the work concerned would be completed in early 2010. However, should new requirements which might not be envisaged at present be introduced by relevant government departments, the working target might need to be adjusted. She therefore considered it irresponsible to give the requested undertaking but stressed that the Administration would take every possible measure to ensure the timely completion of the work.

54. Urging the Administration to as far as practicable refrain from seeking further extension of the CES (D1) post beyond July 2010, members agreed that the relevant proposal could be put to the Establishment Subcommittee for consideration in May 2008.

VII Any other business

55. There being no other business, the meeting ended at 4:40 pm.

Council Business Division 1
Legislative Council Secretariat
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