

立法會
Legislative Council

LC Paper No. CB(1)2284/07-08
(These minutes have been seen
by the Administration)

Ref : CB1/PL/HG/1

Panel on Housing

Minutes of meeting
held on Monday, 5 May 2008, at 2:30 pm
in Conference Room A 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 Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon CHAN Yuen-han, SBS, JP
Hon CHAN Kam-lam, SBS, JP
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
Prof Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** : Hon LI Kwok-ying, MH, JP
Hon LEUNG Kwok-hung
- Public officers attending** : Agenda Item IV
Miss Mary CHOW Shuk-ching, JP
Deputy Secretary for Transport and Housing (Housing)

Mr Tony LIU King-leung
Chief Manager/Management (Support Services 2)
Housing Department

Agenda Item V

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

Mr Eugene FUNG
Principal Assistant Secretary (Private Housing)
Transport and Housing Bureau

Attendance by invitation : Agenda Item V

Estate Agents Authority

Mr Steven POON Kwok-lim, JP
Chairman

Ms Sandy CHAN Pui-shan
Chief Executive Officer

Ms Eva LAU Suk-fun
Director of Regulatory Affairs & General Counsel
(Acting)

Mr Anthony WONG Wai-fung
Director of Operations

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

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

Miss Clara LO
Legislative Assistant (1)3

Action

I Confirmation of minutes

(LC Paper No. CB(1)1399/07-08 -- Minutes of meeting on 4 February 2008)

The minutes of the meeting held on 4 February 2008 were confirmed.

II Information papers issued since last meeting

(LC Paper No. CB(1)1202/07-08(01) -- Administration's paper on Land Registry statistics in March 2008 (press release)

LC Paper No. CB(1)1225/07-08(01) Administration's paper on installation of closed-circuit television and telephone alarm system in the corridor of every floor of public rental housing blocks responding to a submission from a member of the public (LC Paper No. CB(1)1065/07-08(01)))

2. Members noted that the above information papers had been issued since the last regular meeting held on 8 April 2008.

III Items for discussion at the next meeting

(LC Paper No. CB(1)1397/07-08(01) -- List of outstanding items for discussion

LC Paper No. CB(1)1397/07-08(02) -- List of follow-up actions)

3. Members noted that the Administration had not proposed items for discussion at the next regular meeting to be held on Monday, 2 June 2008, at 2:30 pm. The Chairman said that the Panel could re-visit two out of the following three items which were included in the "List of outstanding items for discussion" of the Panel:

- (a) Disclosure of saleable area in sales descriptions for residential properties;
- (b) Proposal to resume the Home Ownership Scheme and the Tenants Purchase Scheme; and
- (c) Land supply for public housing development.

Members agreed that the items to be discussed at the next regular meeting should be determined by the Chairman in consultation with the Administration.

(Post-meeting note: It was subsequently decided that "Sale arrangements for uncompleted first-hand residential flats" and "Land supply for public housing development" would be included in the agenda of the next regular meeting. The notice and agenda of the meeting were issued to members vide LC Paper No. CB(1)1570/07-08 on 19 May 2008.)

IV Rent payment for lower income public housing tenants

(LC Paper No. CB(1)1397/07-08(03) -- Administration's paper on rent payment for lower income public housing tenants)

4. The Deputy Secretary for Transport and Housing (Housing) (DSH) briefed members on details of the Government's proposal to pay one month's rent (the rent payment proposal) for the lower income families living in the public rental housing (PRH) flats in estates of the Housing Authority (HA) and Group A estates of the Hong Kong Housing Society (HKHS) as included in the Financial Secretary (FS)'s 2008-2009 Budget (the Budget). She informed members that the proposal was subsequently extended to include some 300 Elderly Persons' Flats in HKHS Group B estates. The estimated expenditure for implementing the proposal was \$840 million. Subject to the Finance Committee (FC)'s approval to the necessary funding in June 2008, it was expected that the proposal would be implemented in August 2008.

Discussion

The exclusion of "well-off" public housing tenants from the rent payment proposal

5. While expressing support for the rent payment proposal, members expressed concern regarding its coverage. In particular, members considered it discriminatory and unfair that the proposal would not cover "well-off" tenants of HA estates and tenants of HKHS Group B estates (the exclusion). They called on the Administration to extend the rent payment proposal to cover all PRH tenants.

6. Mr WONG Kwok-hing said that the extension of the rent payment proposal to all PRH households would help relieve the high inflation pressure on tenants. He pointed out that the so-called "well-off" households were indeed not high-income families. As the grown-up second generation of these households chose to live with their parents, the total household income would easily exceed the prescribed income limit and triggered the payment of additional rents. Moreover, the younger members of a household might not necessarily share the household expenditure with their parents. On the other hand, he noted that other concessionary measures proposed in the Budget, such as concessions in rates and taxes and electricity charge subsidy, would benefit all sectors of the society. Mr WONG therefore considered that the exclusion was not only contradictory to the Government's policy of promoting mutual family support but also inconsistent with the other concessionary measures in the Budget.

7. Mr Frederick FUNG, Mr LEUNG Yiu-chung, Miss CHAN Yuen-han, Dr YEUNG Sum and the Chairman expressed similar views as Mr WONG Kwok-hing. Mr FUNG considered it inappropriate to further classify PRH households into "better-off" and "worse-off" categories. He called on the Administration to extend the rent payment proposal to cover all PRH tenants. Under the extended proposal, the payment of rents by the Government for the well-off tenants should only cover the net rents but not the additional rents. Miss CHAN expressed concern about the unfairness of the "well-off tenants" policy which had already given rise to many grievances. The Chairman also saw a need to review the policy, as it was inconsistent with the objectives of the enhanced allocation measures which were introduced to address the ageing problem in HA estates. He considered that the ageing problem and the growing number of Comprehensive Social Security Assistance (CSSA) recipients living in PRH estates were not conducive to maintaining the dynamics of the estates and promoting mutual support to prevent social problems. He strongly urged the Administration to reflect his views to HA for consideration.

8. As regards the concern on the coverage of the rent payment proposal, DSH said that while certain initiatives and concessions in the Budget would benefit all sectors of the community, some measures had been specifically targeted at helping the disadvantaged groups. Examples included the proposals to pay one month's rent for lower income public housing tenants, to give one additional month of the standard rate CSSA payments and allowance for CSSA and Disability Allowance recipients respectively and to make a one-off injection of \$6,000 into the Mandatory Provident Fund accounts of those employees and self-employed persons earning no more than \$10,000 per month. In particular, it was clearly stated in the Budget that the rent payment proposal had been specifically proposed to "ease the burden of lower income families...living in the rental units of HA and HKHS". It should be noted that HA tenants were required to pay additional rents if their household income exceeded at least two times of the Waiting List (WL) Income Limits and the income limits for tenants of Group B estates of HKHS were set at a higher level than those applicable to the other HKHS estates and HA estates. She added that household income, rather than the number and composition of household members and whether two generations were living together, was the major consideration in determining eligible tenants under the proposal.

9. Mr Frederick FUNG and Mr LEUNG Yiu-chung were not convinced by the Administration's explanation. Mr FUNG reiterated the unfairness of excluding "well-off tenants" from the rent payment proposal, as even the commercial sector could benefit from tax concessions proposed in the Budget. Given the abundant fiscal surplus of the Government, he considered that the extended proposal should not pose any problem to the Administration. Mr LEUNG stressed that HA tenants paying additional rents and those living in HKHS Group B estates were nonetheless low-income families. Moreover, tenants living in HA estates with total household income and net assets value both exceeding the WL limits would have already been required to vacate their flats.

10. DSH clarified that two-person HA households would need to earn at least \$22,401 or \$33,600 a month before they were required to pay 1.5 times net rent plus rates or double net rent plus rates respectively. The household income level for a four-person household paying 1.5 times net rent plus rates was at least \$30,601. Such levels of household income were much higher than the WL limits.

11. Mr Tommy CHEUNG, Dr Joseph LEE and Miss CHAN Yuen-han enquired about the role of the Transport and Housing Bureau (THB) in formulating the exclusion. Miss CHAN Yuen-han opined that THB should explain to FS the need to extend the rent payment proposal to all PRH households in recognition that they were in fact all low-income families.

12. DSH responded that the rent payment proposal was among the package of measures included in the Budget to help the disadvantaged groups. The proposal was targeted at easing the burden of lower-income families living in PRH flats. The exclusion was to realize the above policy objective. THB had relayed members' views to FS. Taking on board members' views and recognizing that the income limits applicable to Elderly Persons' Flats of HKHS Group B estates were lower than those applicable to other rental flats in Group B estates, FS had indicated in his concluding remarks in the Second Reading debate of the Appropriation Bill 2008 on 23 April 2008 that the rent payment proposal would be extended to cover this particular group of flats in HKHS Group B estates. As regards HA tenants paying additional rents, DSH recapitulated that these tenants had much higher incomes than the WL limits. She added that these tenants could nonetheless enjoy the rates concession which would apply to all HA tenants. She said that both HA and HKHS had already decided to transfer the rates concession to their tenants/licensees in the form of a corresponding reduction in their monthly rents/licence fees from April 2008 to March 2009.

13. Mr CHAN Kam-lam asked about the implementation details of the rent payment proposal. The Chief Manager/Management (Support Services 2) of Housing Department said that the eligibility of HA tenants for the proposal would be determined by their levels of rent payable in the month of implementation of the proposal. In other words, HA tenants paying additional rents during the month of implementation of the proposal would not be included. He also confirmed that the Social Welfare Department would directly transfer to HA the rent for tenants who were CSSA recipients during the month of implementation of the proposal.

Extension of the rent payment proposal to cover two months' rents

14. Mr Frederick FUNG urged the Administration to extend the rent payment period from one month to two months. He pointed out that inflation had worsened since the announcement of the Budget, and according to latest data released by the Census and Statistics Department, there were about a million people earning half of the median monthly household income. The livelihood of low-income families had therefore deteriorated further. As the fiscal surplus in 2007-2008 was \$8 billion more than expected, he considered that the Government had sufficient resources to do more for the needy. Mr LEUNG Yiu-chung shared the view and

stressed the need to relieve the inflation pressure on PRH households in a timely manner. Dr Joseph LEE also supported Mr FUNG's proposal in consideration of the substantial fiscal surplus of the Government.

15. DSH responded that the rent payment proposal in the Budget was to pay only one month's rent for the low-income families living in PRH. She believed that when working out the proposal, FS had taken into consideration all relevant factors so as to achieve an appropriate fiscal balance.

Implementation of the rent payment proposal

16. Mr Tommy CHEUNG enquired about the implications if the Panel did not support the rent payment proposal in its present form. Dr Joseph LEE asked about the timetable for implementing the proposal. DSH responded that it was the Administration's plan to seek the necessary funding approval from FC in early June 2008. Subject to FC's approval, it was expected that the proposal would be implemented in August 2008, i.e. eligible tenants/licensees would not be required to pay rents/licence fees for that month.

17. Mr Tommy CHEUNG stated that the Liberal Party supported submission of the rent payment proposal to FC in June 2008 to enable its early implementation to help relieve inflation pressure on PRH tenants as soon as practicable. In recognition of PRH tenants' strong aspiration to benefit from the proposal early, the Chairman also indicated support for the Administration to submit the relevant financial proposal to FC in June 2008. Nonetheless, he urged the Administration to consider members' views of extending the proposal to cover all public housing tenants.

18. Miss CHAN Yuen-han considered that the Administration should re-examine the rent payment proposal in the light of the discussion at this meeting and introduce changes to the relevant financial proposal to address the grave concern about excluding well-off tenants expressed by members of different political parties before submitting the proposal to FC.

19. Dr YEUNG Sum said that the Democratic Party supported early submission of the relevant financial proposal to FC. He enquired about the numbers of HA tenants paying additional rents and HKHS tenants living in Group B estates, and the additional resources required if the rent payment proposal was to be extended to cover all PRH tenants. DSH said that there were around 20 000 households in HA estates paying additional rents and 2 000 households in HKHS Group B estates, and their rental payment amounted to about \$44 million. Dr YEUNG considered that the extra sum involved by extending the proposal to cover these two groups of tenants would be insignificant and urged the Administration to extend the rent payment proposal to cover all PRH tenants and extend the payment period to two months. The changes to the proposal would ensure LegCo's support for the relevant financial proposal and bring early relief to public housing tenants. DSH agreed to relay members' views to FS.

Motions

20. To take forward his proposal in paragraph 14 above, Mr Frederick FUNG moved the following motion, which was seconded by Mr LEUNG Yiu-chung:

"本事務委員會強烈要求政府當局進一步寬免公共房屋租金一個月，以紓緩通脹對公屋家庭的壓力。"

(Translation)

"That this Panel strongly requests the Administration to waive the rent of public rental housing (PRH) for a further one-month period so as to relieve the pressure of inflation on PRH households."

21. The Panel agreed to proceed with the motion and put it to vote. Of the members present, seven voted for the motion. The Chairman declared that the motion was carried.

22. Mr Frederick FUNG moved a second motion to seek extension of the coverage of the rent payment proposal, which was seconded by Mr LEUNG Yiu-chung, as follows:

"本事務委員會強烈要求政府當局擴大寬免公共房屋租金的受惠對象至所有公共房屋租戶(包括須繳付額外租金的租戶，餘額由租戶自行繳交)，讓所有公共房屋居民一同分享經濟成果。"

(Translation)

"That this Panel strongly requests the Administration to extend the coverage of public rental housing (PRH) rent waiver to include all PRH tenants (including tenants paying additional rents, with the rent in excess of the net rent being paid by the tenants themselves) so that all PRH residents can share the fruits of economic growth."

23. While indicating support for the motion, Mr CHAN Kam-lam opined that the rent payment arrangement proposed in the bracket of the above motion might involve technical difficulties in implementation. Mr Frederick FUNG agreed to change the wordings of his motion, as follows –

"本事務委員會強烈要求政府當局擴大寬免公共房屋租金的受惠對象至所有公共房屋租戶，讓所有公共房屋居民一同分享經濟成果。"

(Translation)

"That this Panel strongly requests the Administration to extend the coverage of public rental housing (PRH) rent waiver to include all PRH tenants so that all PRH residents can share the fruits of economic growth."

24. The Panel agreed to proceed with the second motion and put it to vote. Of the members present, seven voted for the motion, two voted against and one abstained. The Chairman declared that the motion was carried.

(Post-meeting note: The wordings of the two motions were circulated to members vide LC Paper No. CB(1)1463/07-08(01) on 7 May 2008.)

V Briefing on the work of the Estate Agents Authority

(LC Paper No. CB(1)1397/07-08(04) -- The Estate Agents Authority's paper on its work

LC Paper No. CB(1)1397/07-08(05) -- Hon LEE Wing-tat's paper on the work of the Estate Agents Authority dated 23 April 2008)

25. Members noted the following papers tabled at the meeting:

- (a) Administration's paper responding to Hon LEE Wing-tat's paper on the work of the Estate Agents Authority (EAA) dated 23 April 2008 (LC Paper No. CB(1)1397/07-08(05)); and
- (b) Submission from Hong Kong Chamber of Professional Property Consultants Limited.

(Post-meeting note: The above papers were circulated to members vide LC Paper No. CB(1)1441/07-08 on 7 May 2008.)

26. At the Chairman's invitation, Ms Sandy CHAN, Chief Executive Officer of EAA, briefed the Panel on the work of EAA, and new initiatives recently taken or planned to raise the standards of the estate agency trade.

Discussion

Regulatory regime of the estate agency trade

27. Dr YEUNG Sum opined that self-regulation alone could not accord sufficient protection for flat buyers as it could not ensure the provision of accurate and sufficient information on residential properties. Referring to a recent case where estate agents had allegedly accepted deposits before commencement of the sale of a first-hand residential development, he sought EAA's view on the need to put in place statutory measures for governing the sale of first-hand residential

properties.

28. In response, Mr Steven POON, Chairman of EAA, explained that EAA was mainly set up in 1997 to tackle the then malpractices and misconduct of estate agency practitioners in relation to second-hand properties in recognition of the complexity of this type of transactions and concerns about the quality of agency practitioners. The focus of EAA's work in the early years was on enforcement against malpractices related to second-hand properties. Notwithstanding increasing concern about malpractices of developers and practitioners related to first-hand properties in recent years, EAA could not play an active role in tackling the malpractices apart from ensuring order during first-sale of residential properties, as regulation of the developers fell outside the principal functions of EAA. He added that some of the malpractices relating to the sale of first-hand properties involved complicated relationship between practitioners and developers, and very often could only be addressed by regulating developers rather than practitioners. For example, malpractices concerning the calculation and presentation of saleable area of properties, failure to provide price lists for units put on sale, etc. As regards possible areas for improving the relevant legislation to tackle the above problems, EAA would welcome views from the public and LegCo Members.

29. Miss CHAN Yuen-han indicated support for EAA's work. She urged EAA to advise the Panel on the additional powers it required and the necessary amendments to the Estate Agents Ordinance (EAO) (Cap. 511) to enhance the effectiveness. She was particularly concerned about the malpractice of some estate agency practitioners withholding unfavourable information relating to the properties in conducting transactions. Mr Steven POON of EAA responded that the EAO already empowered EAA to take action against the above malpractice. EAA Disciplinary Committee would consider each and every suspected case of non-compliance with the EAO according to established procedures, and determine the appropriate disciplinary sanctions in a fair and just manner taking into account various factors, including the evidence submitted and arguments presented, the nature and gravity of the breach, the licensee's attitude and his/her previous disciplinary record, and other mitigating factors. Should there be areas requiring legislative amendments to strengthen the power of EAA, EAA would not hesitate in putting forward such suggestions to the Panel.

Handling of complaints

30. Dr YEUNG Sum sought details on the nature of the complaint cases highlighted in paragraph 12 of EAA's paper. Ms Sandy CHAN of EAA said that the complaints mainly involved issuing misleading advertisements or giving false or inadequate property information, failing to conduct a land search or provide land-search documents, failing to enter into or explain an estate agency agreement, failing to ensure signing of the sale and purchase agreement by the authorized person, improper practices when dealing with Home Ownership Scheme flats, and failing to alert buyers when dealing with properties subject to building orders.

31. Miss CHAN Yuen-han referred to certain malpractices of estate agency practitioners, e.g. a practitioner had collaborated with a property buyer in persuading the seller to sell his properties at low prices, and a practitioner had failed to keep his promise to a buyer that the cost for complying with a building order on the flat would be taken up by the seller. She asked whether EAA could handle these malpractices. Mr Steven POON and Ms Sandy CHAN of EAA assured members that EAA could effectively handle complaints relating to second-hand properties. The cases highlighted by Miss CHAN were in fact complaints EAA frequently handled. Ms Sandy CHAN added that during the past three years, EAA received 14 complaints involving misrepresentation on property prices and disclosure of interests by estate agents, and 12 of them had been referred to EAA Disciplinary Committee for taking appropriate disciplinary sanctions. EAA also issued a circular in February 2008 to remind practitioners of the need to disclose interests where necessary.

32. To facilitate members in understanding estate agency practitioners' compliance with the law, Mrs Selina CHOW asked about the number of property transactions in the past two years. Ms Sandy CHAN of EAA advised that the numbers of transactions concluded were 99 000 and 145 000 in 2006 and 2007 respectively.

33. Mr WONG Kwok-hing expressed concern about the significant increase in the number of inquiry hearings by EAA Disciplinary Committee from 65 in 2005 to 210 in 2007, which might indicate ineffectiveness of the disciplinary sanctions on licensees. In response, Ms Sandy CHAN of EAA said that the large number of inquiry hearings during the said period resulted from the surge in complaint figures in 2005. The number of complaints received by EAA had decreased since 2005.

34. Prof Patrick LAU enquired whether EAA had received complaints about estate agency practitioners failing to disclose to buyers information on unauthorized building works (UBWs) in properties, which was a frequent problem found in second-hand properties. Ms Sandy CHAN of EAA responded that there had been complaints about practitioners providing inaccurate information on properties, and EAA had received 34 such complaints in 2007. Mr Steven POON of EAA supplemented that there had been complaints against practitioners for failing to inform buyers about the occurrence of deaths in the flats concerned. He assured members that EAA would carefully examine each of such complaints to see if withholding of the information had affected the flat value and/or the buyer's purchase decision.

Compliance inspection

35. In reply to Mr WONG Kwok-hing on measures to tackle the non-compliance cases highlighted in paragraph 17 of EAA's paper, Mr Steven POON and Ms Sandy CHAN of EAA advised that EAA conducted investigations into complaints in accordance with procedures under the EAO. Substantiated cases were referred to EAA Disciplinary Committee, which would consider each and every suspected case of non-compliance in a fair and just manner, and

determine whether an inquiry hearing was necessary. At the hearing, the licensee concerned had the opportunity of being heard. Legal representation was also allowed. The Disciplinary Committee would determine the appropriate sanctions taking into account factors, including the evidence submitted and arguments presented. In cases where EAA's investigation revealed the possibility of criminal offence, such as unlicensed estate agency operation, EAA might refer the cases to the Police or other law enforcement agencies for follow-up. However, notwithstanding the outcomes of the referrals, EAA would mete out sanctions to licensees as necessary.

36. Mr WONG Kwok-hing was concerned that the above measures were inadequate to ensure proper order at first-sale sites. In response, Mr Steven POON of EAA pointed out that depending on the nature and gravity of the breach, severe sanctions, such as suspension or revocation of licences, could be meted out to licensees.

37. Mr LEUNG Yiu-chung considered that regular compliance checks could help deter non-compliances, such as advertising a price different from the vendor's instructions and unlicensed estate agency operation. He enquired about the frequency of compliance inspections carried out to agency shops, and urged EAA to conduct inspections on all agency shops at least once or even twice every year. On compliance inspections for agency shops, Ms Sandy CHAN of EAA advised that EAA had undertaken 980 checks in 2007, including random checks and checks conducted in response to complaints. A total of 80 cases of non-compliance were uncovered and eventually substantiated. Although the number of shops checked only constituted around 25% of the some 4 000 agency shops in Hong Kong, the figure already represented a significant increase over the 499 checks conducted in 2006. She remarked that it might not be desirable to set targets on inspections to agency shops and first-sale sites, as EAA needed flexibility in conducting compliance checks according to market conditions.

38. Mr LEUNG Yiu-chung re-iterated the need for EAA to gear up compliance checks. While sharing the views, Mr Steven POON emphasized that compliance inspections had taken up considerable resources of EAA. In particular, inspections at agency shops took a long time, involving substantial in-depth checking work such as verification of the vendor's authorization. Moreover, since 2007, EAA enforcement team had to ascertain whether anti-money laundering measures had been taken when inspecting agency shops.

39. Mrs Selina CHOW asked whether EAA would consider conducting spot checks at agency shops to ascertain the accuracy of advertisements and property information on new residential projects instead of just responding to complaints. Ms Sandy CHAN of EAA confirmed that such checks were conducted frequently. Sanctions for non-compliances involving issuing advertisement about a property without the vendor's consent and advertising information different from the vendor's instructions had been meted out. The respective numbers of allegations were five, 36, and eight for 2006, 2007 and the first quarter of 2008. Mr Steven POON of EAA added that EAA would carefully check advertisements issued by

estate agencies to guard against exaggerations or false information. If cases of non-compliance were found, heavy penalties on licensees could be imposed.

40. The Chairman indicated support for EAA's work. He noted with concern that in a recent first-sale of a residential development in Sha Tin, some estate agency practitioners handling the sale had allegedly breached the law by collaborating with the developer concerned in accepting deposits before the release of property information and the price list. He pointed out that the practitioners involved might have breached the Code of Ethics promulgated by EAA for failing to protect the interests of their clients. The developer concerned had also breached the Guidelines of The Real Estate Developers Association of Hong Kong for failing to provide the price list and the sales brochures to prospective buyers at least 24 hours before the commencement of the sale. He asked what action EAA could take on the case in order to protect the interests of the flat buyers concerned. On follow-up action by EAA on the case, Mr Steven POON of EAA remarked that if the practitioners concerned had accepted deposits from prospective buyers before the release of property information and the price list, they would have acted wrongly because practitioners should not claim themselves as the appointed agent of the developer, nor should they accept any money from prospective buyers, without first obtaining the developer's authorization. He assured members that EAA was equally concerned about the case. It would look into the matter and, if sufficient evidence was available, initiate disciplinary action against the practitioners concerned.

41. Ms Sandy CHAN of EAA supplemented that EAA was aware of the above case in early May 2008, and had taken initiative to understand more from the developer concerned before the case was widely reported by the media. According to the developer, on 3 May 2008, formal sale of the development was yet to commence, and the price list was not available. If the estate agency practitioners concerned had really accepted deposits from prospective buyers, they might have contravened the practice guidelines and directives of EAA, which stipulated that practitioners should not accept deposits or disclose sales details such as the price list, on behalf of the developer concerned without its consent. In consideration of public concern about the case, Mr Anthony WONG, Director of Operations of EAA, said that EAA had taken urgent actions in following up the matter, including conducting compliance inspections at the site and the agency shops involved. So far, EAA had been considering 12 alleged cases concerning practitioners accepting deposits before the formal sale period. EAA had set up a special task force on the matter and would take prompt follow-up actions.

42. The Chairman expressed support for EAA's actions in following up the above case. He however noted that the developer concerned had continued vigorous promotional activities for the development without making clarification on the date for launching the formal sale. In response, Ms Sandy CHAN of EAA pointed out that sales arrangements for first-hand residential properties were regulated by the Lands Department's Consent Scheme. If an advertisement in respect of a development was issued by an estate agency, EAA would ascertain whether the estate agency had obtained written authorization from the developer

concerned. EAA noted that certain estate agencies obtained the required written authorization on 30 April 2008. There were however two cases where practitioners had engaged in promoting the development without the developer's written consent. EAA was investigating the two cases and the above mentioned 12 allegations regarding unauthorised acceptance of deposits by practitioners.

Development and training of estate agency practitioners

43. Mrs Selina CHOW highlighted the importance of giving recognition for good practices particularly for small and medium-sized estate agencies, as an award scheme for good practices instead of merely imposing sanctions on licensees would be more effective in enhancing the reputation of the trade. In response, Mr Steven POON of EAA said that in order to encourage estate agency practitioners to enhance their knowledge and skills on an ongoing basis, EAA had launched a voluntary Continuing Professional Development (CPD) Scheme since May 2005. Under the Scheme, licensees were encouraged to earn at least 10 CPD points, including at least six points from core subjects, each year. Attainment certificates were awarded to those who met the 10-point target and these practitioners were allowed to print an EAA-endorsed CPD attainment symbol on their business cards.

44. Prof Patrick LAU asked whether training on UBWs in properties was provided to estate agency practitioners so that they could advise buyers of the existence of illegal structures. In reply, Mr Steven POON of EAA remarked that it was unlikely that practitioners would deliberately withhold information on UBWs. Omission on disclosure had mainly been caused by negligence. He added that practitioners should carry out land search against the property concerned. If a property owner failed to comply with a demolition order on UBWs in his property, the order would be registered at the Land Registry against the property concerned. Land search could reveal the registration of such orders, and practitioners were obliged to disclose the information to buyers. As regards training for practitioners, Mr POON said that all training for licensees was on voluntary basis, and EAA could only encourage practitioners to participate. If a practitioner passed the relevant qualifying examinations, EAA could not withhold his/her licence pending completion of certain training. EAA launched an estate agency course designed for new practitioners in early 2008, and participation in the course was voluntary. The CPD Scheme aimed at encouraging practitioners to acquire more knowledge and skills was also a voluntary scheme.

45. Miss CHAN Yuen-han enquired about the number of holders of the Estate Agent Licence and the Salesperson Licence who had completed Form Five or above and those below Form 5. EAA undertook to provide a breakdown after the meeting.

(Post-meeting note: The information provided by EAA was circulated to members vide LC Paper No. CB(1)1654/07-08 on 26 May 2008.)

VI Any other business

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

Council Business Division 1
Legislative Council Secretariat
5 September 2008