

立法會
Legislative Council

LC Paper No. CB(1)1808/10-11
(These minutes have been seen
by the Administration)

Ref : CB1/SS/8/10

**Subcommittee on Antiquities and Monuments (Declaration of Proposed
Monument) (Ho Tung Gardens) Notice**

**Minutes of meeting held on
Wednesday, 23 February 2011, at 9:00 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon KAM Nai-wai, MH (Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Abraham SHEK Lai-him, SBS, JP
Hon LEE Wing-tat
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Cyd HO Sau-lan
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Tanya CHAN
- Public officers:
attending** Mrs Jessie TING
Deputy Secretary for Development (Works)
Mrs Laura ARON
Commissioner for Heritage
Mr Tom MING
Executive Secretary (Antiquities and Monuments)
Leisure and Cultural Services Department
- Clerk in attendance** : Ms Annette LAM
Chief Council Secretary (1)7

Staff in attendance : Mrs Constance LI
Assistant Secretary General 1

Mr Noel SUNG
Senior Council Secretary(1)5

Ms Queenie LAM
Legislative Assistant (1)7

Action

I Election of Chairman and late application for membership

Mrs Sophie LEUNG, the member with the highest precedence in the Council among the members of the Subcommittee present, presided over the election of the Chairman of the Subcommittee. She invited nominations for the chairmanship of the Subcommittee.

2. Mr KAM Nai-wai was nominated by Mr LEE Wing-tat and seconded by Mr IP Kwok-him. Mr KAM accepted the nomination. There being no other nominations, Mr KAM was elected Chairman of the Subcommittee.

Late application for membership

3. Members noted and accepted the late application for membership from Ms Cyd HO.

II Meeting with the Administration

Background information on the Regulation

L.N. 26 of 2011	-- Antiquities and Monuments (Declaration of Proposed Monument) (Ho Tung Gardens) Notice
LC Paper No. LS25/10-11	-- Legal Service Division Report
DEVB/CS/CR6/5/284	-- Legislative Council Brief issued by the Development Bureau

LC Paper No. CB(1)1374/10-11 -- Paper on Antiquities and Monuments (Declaration of Proposed Monument) (Ho Tung Gardens) Notice prepared by the Legislative Council Secretariat (Background brief)

The Subcommittee deliberated (index of proceedings attached at **Annex**).

Follow-up actions to be taken by the Administration

Admin 4. The Administration was requested to provide the following information:

- (a) the principles, criteria, factors of consideration, procedures and mechanism for determining the grading of historic buildings, and for declaring a place, a building site, or a structure as a proposed monument;
- (b) the principles, criteria and the mechanism for determining the form and amount of compensation and the economic incentives to be provided to the owner of a place, a building site or a structure declared as a proposed monument/graded historic buildings to facilitate conservation of privately-owned historic buildings;
- (c) details and the time sequence of events leading to the declaration of Ho Tung Gardens as a proposed monument; and
- (d) the deliberations of the Antiquities Advisory Board (AAB), including but not limited to minutes of meeting, discussions papers, reference materials and expert opinion that had been taken into consideration in the declaration of Ho Tung Gardens as a proposed monument.

(Post-meeting note: The information provided by the Administration was circulated to members vide LC Paper No. CB(1)1478/10-11 issued on 3 March 2011.)

5. The Subcommittee agreed to refer members' views on the need for a long-term, holistic and sustainable policy to preserve privately-owned historic buildings, including fair and transparent

compensation arrangement and economic incentive policy for private owners of proposed monuments, monuments and historic buildings to the Panel on Development for consideration and follow up.

Secretariat

6. The Chairman concluded that the Subcommittee had completed scrutiny of the Antiquities and Monuments (Declaration of Proposed Monument) (Ho Tung Gardens) Notice (the Declaration Notice) and would report its deliberations to the House Committee on 4 March 2011. Members agreed.

III Any other business

7. There being no other business, the meeting ended at 10:30 am.

Council Business Division 1
Legislative Council Secretariat
7 April 2011

**Subcommittee on Antiquities and Monuments (Declaration of Proposed Monument)
(Ho Tung Gardens) Notice**

**Proceedings of meeting
on Wednesday, 23 February 2011, at 9:00 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000230 – 000331	Mrs Sophie LEUNG Mr LEE Wing-tat Mr IP Kwok-him Mr KAM Nai-wai	Election of Chairman	
000332 – 000652	Chairman	Late application for membership from Ms Cyd HO.	
000653 – 000930	Administration	Briefing by the Administration (Legislative Council Brief Ref: DEVB/CS/CR6/5/284 issued by the Development Bureau).	
000931 – 001740	Mr LEE Wing-tat Mr IP Kwok-him Administration	Mr LEE Wing-tat's view about the apparent absence of a long-term, holistic and sustainable policy to preserve privately-owned historic buildings. He was of the view that the existing approach for considering preservation arrangements for individual historic buildings on a case-by-case basis was unsatisfactory and reactive, and that a heritage trust should be set up for implementing heritage conservation initiatives. Mr IP Kwok-him's view that the Administration should take early coordinated action to preserve graded historic buildings, Grade 1 historic buildings in particular, and proactively discuss preservation options with the	

Time marker	Speaker	Subject(s)	Action required
		<p>owners concerned to prevent recurrence of incidents such as that of King Yin Lei.</p> <p>The Administration's explanation that:</p> <ul style="list-style-type: none"><li data-bbox="571 436 1209 862">(a) an internal monitoring mechanism was in place to better protect privately-owned monuments, proposed monuments, graded/proposed to be graded historic buildings from the threat of demolition, alteration and addition works or material changes in their uses which might affect the heritage value of these buildings;<li data-bbox="571 913 1209 1646">(b) the Government had adopted a proactive approach under the new heritage conservation policy announced by the Chief Executive in October 2007. In parallel with the public consultation on the proposed grading of the 1 444 historic buildings conducted from March to September 2009, the Administration had proactively informed owners of all 1 444 historic buildings of the proposed grading, invited them to give views, and explained to them the Administration's policy and assistance available for promoting heritage conservation;<li data-bbox="571 1697 1209 2074">(c) the Commissioner for Heritage's Office (CHO) and the Antiquities and Monuments Office (AMO) would proactively approach owners of the historic buildings when redevelopment proposals were brought to their attention and discuss with owners possible preservation options and	

Time marker	Speaker	Subject(s)	Action required
		<p>appropriate economic incentives, for encouraging preservation of the buildings. Assistance in the form of grant under the Financial Assistance for Maintenance Scheme as well as expert technical advice on preservation works were also provided to owners of privately-owned graded historic buildings for carrying out any necessary maintenance works.</p>	
001741 – 003039	Mr Abraham SHEK Administration	<p>Mr Abraham SHEK declared interest for possible connection with the owner of Ho Tung Gardens.</p> <p>Mr SHEK’s view that there should be a clear and transparent mechanism, with consistent and fair principles and criteria, for determining the form and amount of compensation and economic incentives to be provided to the owners affected.</p> <p>The Administration’s explanation of the mechanism for the payment of compensation to the owner or the lawful occupier of a proposed monument under section 8 of the Antiquities and Monuments Ordinance (Cap. 53) (the Ordinance). The type and extent of economic incentives, to be determined on a case-by-case basis, should be commensurate with the heritage value of the historic buildings concerned.</p>	Admin to follow up (Para. 4(b) of the minutes)
003040 – 003644	Miss Tanya CHAN Administration	<p>Miss Tanya CHAN’s view that the Legislative Council (LegCo) Brief and the heritage assessment report in respect of Ho Tung Gardens were too brief.</p> <p>Miss CHAN’s concern whether regular site inspections were conducted on</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Grades 2 and 3 buildings as a number of these graded buildings in Yuen Long were proposed to be used as private columbaria.</p> <p>Miss CHAN's view that a tree survey should be conducted for Ho Tung Gardens to monitor tree-related work within the site.</p> <p>The Administration noted the comments made. The Administration advised that in addition to the internal monitoring mechanism, the District Offices also assist in alerting the CHO and the AMO if their staff, during their normal course of duties, were aware of any demolitions of/alterations to the monument/proposed monument or the graded/proposed graded buildings. The owners of the 1 444 historic buildings had been informed of all forms of assistance available to encourage preservation of the historic buildings.</p>	
003645 – 004047	Prof Patrick LAU Administration	<p>Prof Patrick LAU's enquiry about the details of the relevant AAB deliberations, and time sequence of events leading to the declaration of Ho Tung Gardens as a proposed monument.</p> <p>The Administration explained the events relating to the declaration of Ho Tung Gardens as a proposed monument, including the confirmation of the Grade 1 status of Ho Tung Gardens by AAB; the exchanges between CHO, AMO and the owners on the importance of the preservation of Ho Tung Gardens; the Administration's action to declare Ho Tung Gardens as a proposed monument to offer timely protection having noted</p>	Admin to follow up (Para. 4(c) and (d) of the minutes)

Time marker	Speaker	Subject(s)	Action required
		<p>the possible demolition threat to the Gardens. The justifications for the declaration had been uploaded onto the AMO website.</p>	
<p>004048 – 005346</p>	<p>Mrs Sophie LEUNG Administration</p>	<p>Mrs Sophie LEUNG’s view that:</p> <ul style="list-style-type: none"> (a) the LegCo Brief should have elaborated more on the historical, cultural and the architectural value of the building in addition to emphasizing the social status of Sir Robert Ho Tung and his family; (b) reference should be made to international standards, such as that of the United Nations Educational, Scientific and Cultural Organization, in assessing the heritage value of buildings and sites; and (c) there should be flexibility for working out appropriate preservation options and types of economic incentives having regard to the circumstance of each individual case. <p>The Administration explained the assessment approach and the assessment criteria endorsed by AAB for determining the grading of historic buildings. Ho Tung Gardens, being the only remaining residence in Hong Kong directly related to Sir Robert Ho Tung, Lady Clara Ho Tung and General Robert Ho Shai-lai, and a masterpiece of the Chinese Renaissance style architecture which exemplified a mixture of Chinese and Western architectural elements, was considered to be of a high heritage and</p>	<p>Admin to follow up (Para 4(a) of the minutes)</p>

Time marker	Speaker	Subject(s)	Action required
		architectural value.	
005347 – 010054	Ms Cyd HO Miss Tanya CHAN Mr LEE Wing-tat Mrs Sophie LEUNG Mr Abraham SHEK Administration	<p>Ms Cyd HO, Miss Tanya CHAN and Mr Abraham SHEK’s views that:</p> <ul style="list-style-type: none"> (a) the principles, assessment criteria as well as the procedures and mechanism for determining the grading of historic buildings and for declaration of monuments and proposed monuments should be publicized to enhance public awareness; (b) the reasons for selection and the historical, cultural and architectural significance of the graded buildings should be clearly explained to the public to enable the public to better understand and appreciate the heritage value and preservation need of individual historic buildings; (c) the Administration should enhance the transparency of and public participation in heritage assessment; and <p>The Administration’s explanation that:</p> <ul style="list-style-type: none"> (a) information on the graded historic buildings and justifications for their grading as well as the assessment criteria and procedures for the grading were explained in writing and published on the website of AMO; (b) private owners of these buildings were also informed of the proposed grading and invited to give their views; and 	

Time marker	Speaker	Subject(s)	Action required
		<p>(c) an expert panel, established under AAB for independent heritage assessments, had subsequently account the views and additional information received from members of the public and owners during the public consultation in 2009.</p>	
<p>010055 – 010419</p>	<p>Chairman Mr IP Kwok-him Mr LEE Wing-tat Mrs Sophie LEUNG Administration</p>	<p>The Chairman and Mr IP Kwok-him’s enquiry about the mechanism for triggering the procedures for considering whether a graded/proposed to be graded building should be declared as a monument for statutory protection.</p> <p>The Administration’s explanation of the establishment of a formal relationship between the statutory monument declaration system and the AAB’s administrative grading system for historic buildings endorsed by the AAB in November 2008. The Antiquities Authority is committed to actively considering whether a building in the pool of Grade 1 buildings had reached the high threshold of heritage value for the declaration of monument under section 3(1) of the Ordinance, and might take action to declare it as a proposed monument under section 2A of the Ordinance if the building needed immediate statutory protection (e.g. if the building was under threat of demolition or alteration/ renovation works were proposed to be carried out which might affect the heritage value of the building). However, such a linkage would not oblige the Antiquities Authority to declare all Grade 1 buildings as monuments.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Chairman and Mr LEE Wing-tat's enquiry about the setting up of a heritage trust.</p> <p>Mrs LEUNG expressed her reservation about establishing a fund for acquiring historic properties for preservation.</p> <p>The Administration advised that it was studying the feasibility of setting up a heritage trust in Hong Kong. More time would be required for the various heritage conservation initiatives to demonstrate their full effect.</p>	
010420 – 011353	Mr Abraham SHEK Chairman Administration	<p>Mr Abraham SHEK and the Chairman reiterated the need for fair and transparent compensation arrangement and economic incentive policy.</p> <p>Mr SHEK's enquiry about the closed-door meeting held by the AAB to deliberate on the declaration of Ho Tung Gardens as a proposed monument.</p> <p>The Administration explained the closed-door arrangement for the AAB meeting held on 25 January 2011 was to avoid any pre-mature leakage that could jeopardize the intended protection to Ho Tung Gardens. Immediately following the AAB meeting, Secretary for Development and the Chairman of AAB briefed the media on the decision to declare Ho Tung Gardens as a proposed monument and the outcome of the AAB meeting.</p>	
011354 –	Miss Tanya	Miss Tanya CHAN's view that the	

Time marker	Speaker	Subject(s)	Action required
011908	CHAN Chairman Administration	<p>Administration should ensure public accessibility to the revitalized historic buildings as far as practicable.</p> <p>The Administration's response that allowing public access to historic buildings as far as feasible was already a general requirement in heritage preservation work. The Administration undertook to further enhance public accessibility to the revitalized historic buildings.</p>	
011909 – 012353	Prof Patrick LAU Chairman Administration	<p>Prof Patrick LAU's view that Lady Clara Ho Tung's contribution to charitable work in Hong Kong should be emphasized.</p> <p>Prof LAU's enquiry about the plot ratio for the site and the feasibility of a preservation-cum-development option for Ho Tung Gardens.</p> <p>The Administration replied that the maximum plot ratio for the site was 0.5 under the approved The Peak Outline Zoning Plan. The Administration added that it would strive to work out with the owner a "win-win" preservation option having regard to the merits of this particular building and the circumstance of the case.</p>	
012354 – 012607	Mrs Sophie LEUNG	Mrs Sophie LEUNG's suggestion to refer the subcommittee's views about the need for a long-term, holistic and sustainable policy to preserve privately-owned historic buildings to the Panel on Development for consideration and follow up.	Para. 5 of the minutes

Time marker	Speaker	Subject(s)	Action required
012608 – 012821	Chairman	Concluding remarks by the Chairman	

Council Business Division 1
Legislative Council Secretariat
7 April 2011