

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 2023/10-11  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/HG/1

**Panel on Housing**

**Minutes of meeting**  
**held on Thursday, 10 February 2011, at 4:30 pm**  
**in Conference Room A of the Legislative Council Building**

- Members present** : Hon LEE Wing-tat (Chairman)  
Hon WONG Kwok-hing, MH (Deputy Chairman)  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon Fred LI Wah-ming, SBS, JP  
Hon James TO Kun-sun  
Hon CHAN Kam-lam, SBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Frederick FUNG Kin-kee, SBS, JP  
Hon Vincent FANG Kang, SBS, JP  
Dr Hon Joseph LEE Kok-long, SBS, JP  
Hon CHAN Hak-kan  
Hon WONG Kwok-kin, BBS  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung
- Members absent** : Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP  
Hon LEUNG Yiu-chung  
Prof Hon Patrick LAU Sau-shing, SBS, JP
- Public officers attending** : **For item IV**
- Mr D W PESCOD, JP  
Permanent Secretary for Transport and Housing (Housing)
- Mr Albert LEE, JP  
Deputy Director (Estate Management)  
Housing Department

Dr Pang Hon-wah  
Chief Manager/Management (Support Services)5  
Housing Department

**For item V**

Mr D W PESCOD, JP  
Permanent Secretary for Transport and Housing (Housing)

Ms Ada FUNG, JP  
Deputy Director (Development & Construction)  
Housing Department

Mr LEUNG Sai-chi  
Assistant Director (Estate Management)1  
Housing Department

Ms Rosman Wai  
Senior Manager/Environment  
Housing Department

**For item VI**

Mr D W PESCOD, JP  
Permanent Secretary for Transport and Housing (Housing)

Ms Annette LEE, JP  
Deputy Secretary for Transport and Housing (Housing)

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

Ms Annie TAM, JP  
Director of Lands

Mr CHAU Hon-yum  
Assistant Director/Legal/PARD & NTE (Legal Advisory  
and Conveyancing Office)  
Lands Department

Mr Armstrong CHU  
Chief Land Conveyancing Officer/ PARD (Legal  
Advisory and Conveyancing Office)  
Lands Department

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

**Staff in attendance :** Mrs Mary TANG  
Senior Council Secretary (1)1

Miss Mandy POON  
Legislative Assistant (1)1

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Action

**I. Confirmation of minutes**

- (LC Paper No. CB(1) 1035/10-11 — Minutes of the joint meeting with the Panel on Financial Affairs held on 22 November 2010
- LC Paper No. CB(1) 1180/10-11 — Minutes of the meeting held on 6 December 2010)

The minutes of the joint meeting and the regular meeting held on 22 November and 6 December 2010 respectively were confirmed.

**II. Information paper issued since last meeting**

2. Members noted the following information papers which had been issued since last meeting -

LC Paper Nos. CB(1) 988/10-11(01) — Administration's papers on  
and CB(1) 1237/10-11(01) Land Registry Statistics in  
December 2010 and  
January 2011

**III. Items for discussion at the next meeting**

- (LC Paper No. CB(1) 1209/10-11(01) — List of follow-up actions  
LC Paper No. CB(1) 1209/10-11(02) — List of outstanding items for  
discussion)

3. Members agreed to discuss the following items at the next regular meeting to be held on Monday, 7 March 2011, at 2:30 pm -

- (a) Review of the Income and Total Net Asset(s) Limits; and
- (b) Product certification of construction materials.

**IV. Progress report on addition of lifts and escalators to existing public rental housing estates**

(LC Paper No. CB(1) 1209/10-11(03) — Administration's paper on progress report on addition of lifts and escalators to existing public rental housing estate

LC Paper No. CB(1) 1209/10-11(04) — Paper on progress of addition of lifts and escalators in Housing Authority's existing public housing estates prepared by the Legislative Council Secretariat (updated background brief))

4. The Permanent Secretary for Transport and Housing (Housing) (PSTH(H)) briefed members on the progress of the programme on addition of lifts, escalators and footbridges to the existing public rental housing (PRH) estates of the Hong Kong Housing Authority (HA) by highlighting the salient points in the information paper. The Chief Manager/Management (Support Services)5 (CM/M(SS)5) gave a power-point presentation on the subject.

*(Post-meeting note: A set of the power-point presentation materials was circulated to members vide LC Paper No. CB(1) 1300/10-11(01) on 15 February 2011.)*

5. Mr WONG Kwok-kin recalled that during the public consultation on Shatin to Central Link (SCL) some two years ago, the Administration had undertaken to provide lifts and escalators at the densely populated Tze Wan Shan district for the convenience of residents. Given the lack of progress so far, he enquired about the time frame for provision of lifts and escalators at Tze Wan Shan. CM/M(SS)5 said that the installation of lifts and escalators at Tze Wan Shan formed part of SCL, which was a MTR Corporation Limited (MTRCL) project pending funding approval from the Finance Committee. Mr WONG opined that the provision of lifts and escalators at Tze Wan Shan and the construction of SCL were two separate projects. He considered it unfair that the provision of badly needed lifts and escalators at Tze Wan Shan should be contingent upon the approval of SCL. CM/M(SS)5 said that as the provision of lifts and escalators installation works at Tze Wan Shan formed a part of the package of measures to enhance pedestrian access, this would have to tie in with the construction of SCL. Nevertheless, tenders had been invited for the installation of lifts at Phase 1, Tze Lok Estate. Given the scale of SCL, the Deputy Director of Housing (Estate Management) (DDH(EM)) supplemented that comprehensive planning was required for designs of all associated works. There was no question of bundling the provision of lifts and escalators at Tze Wan Shan together with the construction of SCL.

6. While acknowledging that the provision of lifts and escalators at Tze Wan Shan was a part of the improvement plan to be implemented by MTRCL under SCL to enhance pedestrian access, Mr Fred LI asked if HA would consider carrying out the improvement works first and reimbursing the cost, which was estimated at around \$700 million, from MTRCL upon approval of SCL to enable early provision of the needed facilities. Mr CHAN Kam-lam pointed out that some PRH estates in Tze Wan Shan, such as Tze Ching Estate, were built along the hillside. He stressed the need to provide lifts and escalators to enhance pedestrian access. Expressing similar views, Mr LEUNG Kwok-hung and Mr Alan LEONG agreed to the need for early provision of lifts and escalators in Tze Wan Shan without having to await the approval of SCL. PSTH(H) said that there was a need for coordination in the provision of lifts and escalators, particularly if these were outside the boundaries of PRH estates. DDH(EM) added that the crux of the issue was not the installation cost but the need to coordinate the planning and design for the entire SCL project. Mr LI however pointed out that the preparatory works, such as the road works associated with the installation of lifts and escalators at Tze Wan Shan, could proceed first without having to await the approval of SCL. DDH(EM) said that preparatory works would be taken as far as practicable.

#### Addition of lifts, escalators and footbridges in external areas

7. Mr Fred LI considered that a more definitive time frame should be provided for the addition of lifts, escalators and footbridges within the boundaries of PRH estates. DDH(EM) said that as the entire enhancement programme on addition of lifts, escalators and footbridges to existing PRH estates was targeted for completion by 2012, which was less than a year to go, a more exact time frame had not been provided. It was expected that 26 lifts and six escalators would be provided within 19 estates by 2012. The programme was an on-going one and aimed at enhancing pedestrian access in external areas on a need basis taking into account residents' demand. Mr CHAN Kam-lam said that the Administration should take the initiative to provide lifts, escalators and footbridges to enhance pedestrian access without relying on the feedback from residents. In reply to Mr Alan LEONG's enquiry about the timing for completion of the works for addition of lifts in Oi Man Estate, DDH(EM) said that The Link had engaged consultants for the design of the concerned lift in Oi Man Estate. Subject to the approval of the design, tenders would be invited for the installation works which was expected to commence in 2011 for completion in 2012.

#### Addition of lifts in existing PRH blocks without lift service

8. DDH(EM) said that addition of lifts to the low-rise blocks in the 12 estates currently without lift services were moving ahead as planned. Thereafter, all PRH blocks would be installed with lifts where the structure permitted.

Modernization work for lifts in existing PRH estates

9. Mr Fred LI asked if covers could be provided for escalators in PRH estates. Mr CHAN Kam-lam echoed that covers should be provided for existing escalators, such as those in Lok Wah Estate, for the convenience of residents. DDH(EM) agreed to visit Lok Wah Estate to ascertain the conditions of existing escalators and the feasibility of providing covers for these escalators not only for the convenience of residents but also for better protection of the escalators. As part of the on-going lift modernization programme, HA would continue to replace lifts over 25 years of age at the pace of about 100 lifts each year over the next five years.

10. Mr WONG Kwok-hing enquired about the number of PRH blocks which did not have lift openings for every floor, and whether these would be dealt with under the present modernization programme. Mr Alan LEONG also enquired if special arrangements would be provided to transfer elderly or physically disabled tenants living in the top floor units which were not provided with lift openings. DDH(EM) said that of the 1 200 PRH blocks with old designs, about 400 were not provided with lift openings at every floor. These lifts would be replaced if they were over 25 years of age under the on-going lift modernization programme, and lift openings would be provided at every floor if the structure permitted. If the structure did not allow for lift openings on the top floor, transfer arrangements would be made as necessary for the convenience of tenants. At members' request, the Administration agreed to provide a list of estates which would undergo the said lift improvements works.

11. Mr WONG Kwok-hing noted with concern that as some lifts in PRH estates, such as those in Fuk Loi Estate, were not equipped with sensors, passengers could easily get caught between closing lift doors. He also pointed out the need to provide floor numbers in Braille characters for the existing lifts in PRH estates to facilitate the visually impaired. Mr Frederick FUNG said that as a member of the Equal Opportunities Commission, he would welcome the provision of barrier free access for the disabled, including those with visual and hearing impairments. He however noticed that the surfacing materials for tactile guide paths were not entirely smooth and had posed difficulty for both abled and disabled persons. PSTH(H) said that a number of initiatives had been provided to allow barrier free access for the disabled. Better road surfacing materials, motion-activated lighting systems and tactile guide paths for the visually impaired had already been introduced in new PRH estates. In addition, brighter colour schemes were introduced for the benefit of the visually impaired. Efforts would be made to constantly upgrade measures to facilitate barrier free access and members would be informed of the progress on a regular basis. DDH(EM) said that HA attached great importance to passenger safety and efforts would be made to ensure the performance of lifts in estate blocks which had a high usage rate.

Braille characters would be adopted for floor numbering in the existing lifts as part of the \$300 million plan on the provision of barrier free access. Braille characters would also be adopted in the new replacement lifts. He added that while appropriate measures would be introduced to facilitate barrier free access for the disabled, care would be taken to ensure that these would not interfere with pedestrian traffic.

12. Mr Frederick FUNG opined that more lifts should be installed in larger estates. Consideration should also be given to using more energy-efficient escalators which would only be turned on with passengers on board. Mr Fred LI echoed that communication and energy-efficient lighting systems should be installed in lifts. DDH(EM) said that there might be difficulties in identifying additional space in accommodating the extra lifts in existing estates. While energy-efficient installations, such as motion-activated lighting and escalator systems, could be provided in new estates, it was worth noting that the energy consumption as well as the wear and tear associated with constant re-activation of the systems was quite high.

13. Mr Alan LEONG noted that some tenants of Block 7, Kwai Shing West Estate, had complained about the disturbance caused by lift doors directly facing their units. He enquired if the design of the lift lobby could be altered to reduce the disturbance. CM/M(SS)5 said that efforts would be made to resolve the problem.

#### **V. Performance of environmental targets and initiatives in 2010**

(LC Paper No. CB(1) 1209/10-11(05) — Administration's paper on performance of environmental targets and initiatives in 2010

LC Paper No. CB(1) 1209/10-11(06) — Paper on environment-friendly designs and green measures implemented in public rental housing estates prepared by the Legislative Council Secretariat (updated background brief))

14. PSTH(H) explained the performance of environmental targets and initiatives of HA in 2009/2010 by highlighting the salient points in the information paper. The Deputy Director of Housing (Development & Construction) (DDH(D&C)) gave a power-point presentation on the subject.

(*Post-meeting note*: A set of power-point presentation materials was circulated to members vide (LC Paper No. CB(1) 1300/10-11(02) on 15 February 2011.)

### Energy consumption

15. Mr Frederick FUNG was concerned about the slow progress in the application of solar and wind energy in PRH estates. He opined that reference should be made to the Mainland in using solar and wind energy to power street lamps. Ir Dr Raymond HO echoed that the progress of using renewable energy in PRH estates was too slow. He supported that more trials on photovoltaic (PV) panel systems should be conducted in different estates, particularly those situated at hillsides. The same would apply to wind energy. Mr LEUNG Kwok-hung also enquired if feasibility studies on the wider use of solar and wind energy in different estates had been conducted.

16. In response, PSTH(H) said that while HA would endeavour to promote a green environment in line with Government environmental initiatives, this should not distract HA from its primary objective of providing affordable rental housing to those in genuine need. In considering the feasibility of using solar and wind energy in PRH estates, HA would need to take into account the loading factor and the associated noise nuisances involved. DDH(D&C) said that following the trial on PV panel system at Lam Tin Phase 7 and 8, efforts had been made to identify the most cost-effective means to develop solar energy with a view to putting this to use on a larger scale. However, PV panel system could not be installed in low estate blocks because of the glaring effect. Trial on the use of lighting system powered by solar/wind energy was being carried out at the Sau Mau Ping South Estate. Given the wind speed in Hong Kong, there were very few sites which would be suitable for the installation of wind turbines. She nevertheless agreed that more trials could be conducted on the use of solar and wind energy. Meanwhile, ADH(EM)1 said that energy-efficient lighting systems would be implemented in PRH estates to optimize the use of daylight. While appreciating the continuous efforts of HA in promoting a green environment, Ir Dr Raymond HO remained of the view that more environmental features could be provided in PRH estates as these should not have any impact on PRH development. DDH(D&C) said that HA would need to take into account the cost-effectiveness and practicality of implementing these green features.

### Waste management

17. Mr LEUNG Kwok-hung considered that more waste collection facilities should be provided to facilitate waste collection and separation, and that the Government should take the lead in promoting on-site treatment of food waste in PRH estates. While commending HA for its efforts in achieving the environmental targets and initiatives in 2009/2010, Mr CHAN Hak-kan agreed



that more should be done, particularly in treatment of food waste at source as over 3 000 tonnes of food waste were disposed of at landfills every day. He enquired about the progress of installing on-site food waste treatment facilities in PRH estates. DDH(D&C) said that innovative waste segregation facilities would be provided along the corridors of new estate blocks, such as Yau Lai Estate, to facilitate waste separation at source. On-site food waste treatment facilities would also be provided in two PRH estates on a trial basis. The Assistant Director of Housing (Estate Management)1(ADH(EM)1) added that the two estates would be Tin Ching Estate and Tze Ching Estate. HA would maintain close liaison with the Environmental Protection Department in respect of ventilation and odour control in the treatment of food waste during the trial which would commence in mid-2011.

### Water consumption

18. Noting that fresh water had been used for flushing in PRH estates in the North District, Mr CHAN Hak-kan enquired whether arrangements could be made to use seawater or recycled water for flushing instead. Mr LEUNG Kwok-hung also asked if dual flushing systems could be applied to all PRH estates to enable water conservation. PSTH(H) said that dual flushing systems could only be provided in new PRH estates, given the need to replace the substantial number of toilet facilities in existing PRH estates. DDH(D&C) added that seawater was used for flushing in all PRH estates as long as this was made available by the Water Supplies Department.

19. Mr Frederick FUNG supported the use of water reduction facilities as well as energy-efficient lighting systems. Efforts, such as provision of financial incentives, should also be made to encourage the public to conserve water and electricity. Referring to the experience in Australia and New Zealand, Mr FUNG said that a green design should be adopted for new PRH blocks to put treatment facilities for food waste and sewage underground for on-site treatment. DDH(D&C) said that water reduction facilities, such as shower fittings with reduced water consumption, had already been installed in some estates. Adjustable lighting systems had also been adopted in new estates for the benefit of the visually impaired. Residents were encouraged to take part in water and energy conservation activities jointly organized by HA and some environmental groups. On the proposal of developing underground utilities for on-site treatment of sewage and food waste, DDH(D&C) said that this would be difficult to implement in the densely populated estates. Nevertheless, efforts had been made to recycle rain water for irrigation purpose.

### Greening

20. Mr Frederick FUNG said that more greening efforts should be made in PRH estates. Mr LEUNG Kwok-hung supported that green roofs should be

provided where practicable. DDH(D&C) explained that it might not be practicable to provide green roofs in high PRH blocks as these were used as refuge area for fire escape. However, consideration could be given to providing green roofs in low estate blocks, shopping centres, refuse stations and footbridges. ADH(EM)1 added that greening efforts, including tree planting activities, would continue to be promoted within the estate community. At present, there were about four to five community planting projects in PRH estates. More community planting projects would be launched through the support and participation of Estate Management Advisory Committees.

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21. Mr WONG Kwok-hing held the view that apart from painting the roof in green colour, more could be done to enhance greening of the community hall at Kwai Shing West Estate. DDH(D&C) agreed to follow up on the greening of the community hall of Kwai Shing West Estate and revert back to the Panel in due course.

## **VI. Dissemination of misleading information on sale of residential properties**

(LC Paper No. CB(1) 683/10-11(01) — Administration's paper on regulation of the release of sales information on the first-hand private residential properties

LC Paper No. CB(1) 1209/10-11(07) — Paper on regulation of the release of sales information on first-hand private residential properties prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(1) 1257/10-11(01) — Administration's paper on dissemination of misleading information on sale of residential properties)

22. The Chairman said that the item was to follow up on the monitoring and regulation of the accuracy of the sales information on uncompleted first-hand private residential properties, with particular reference to the recent case where a senior executive of a major development company made a statement in his online blog that those who purchased Festival City Phase II on 19 November 2010 would not be affected by the proposed implementation of the special stamp duty (SSD) announced by the Administration on the same day. He further informed members that after the Real Estate Developers Association of Hong Kong (REDA)

had provided its replies to the Transport and Housing Bureau (THB) on the case, the Administration had also been requested to provide the related correspondences. The relevant correspondences were tabled at the meeting.

23. PSTH(H) said that the Administration was committed to maintaining the healthy and stable development of the private residential property market, safeguarding the rights of consumers, and ensuring access to accurate and comprehensive property information, particularly on uncompleted properties. In the past two years, THB had implemented through the Consent Scheme and REDA's guidelines a number of measures to enhance the transparency and clarity of property information on uncompleted first-hand private properties. These included implementation of the nine new measures on show flats and transaction information. To further strengthen the regulation on private residential properties, THB had established a Steering Committee on the Regulation of the Sale of First-hand Residential Properties by Legislation (the Steering Committee) to discuss specific issues pertaining to the regulation of the sale of first-hand properties by legislation. The Steering Committee commenced work in November 2010 and was expected to come up with practical recommendations for the consideration of the Secretary for Transport and Housing by October 2011. Misrepresentation and the dissemination of false information would be one of the key areas which the Steering Committee would discuss. THB's target was to take forward the subsequent consultation in the form of a White Bill in order to expedite the process.

24. As regards the case in question, PSTH(H) said that THB had been following up the case with REDA and THB would seek further clarification from REDA on the issue. In addition, the Lands Department (LandsD) had also been in correspondence with the grantee of the development in relation to the case. He added that it was not a normal practice for the Administration to disclose information relating to an issue which was being followed up, so as not to adversely affect and prejudice the ongoing action. However, as REDA had disclosed to the Panel its letters of 8 December 2010 and 10 February 2011 and THB's letter of 9 February 2011, THB had at the request of the Clerk, passed to the Panel its correspondence to REDA as mentioned in REDA's two letters so that members could understand the matter in a comprehensive manner. He stressed that the Administration would not tolerate any action affecting the fairness of property transactions by the dissemination of incomplete and inaccurate information relating to the sales of first-hand private residential properties. He urged prospective buyers to seek proper advice from solicitors and/or relevant professionals rather than taking heed of irresponsible statements from interested parties before considering the purchase of properties. Referring to the correspondence exchanges between THB and REDA, the Chairman noted that the developer company concerned, the Cheung Kong Property Development Limited (Cheung Kong), had issued a letter to REDA on 26 November 2010. He requested that the letter should be made available for members' reference.

25. Referring to the email dated 24 November 2010 from the Principal Assistant Secretary for Transport and Housing (Housing) (Private Housing) (PASTH(H)(PH)) to REDA, the Chairman noted that PASTH(H)(PH) had clearly stated that the statement made by the senior executive of the developer company concerned was misleading. This should have justified the need for an investigation on any non-compliance with the Consent Scheme. He questioned why LandsD had only been communicating with REDA by mail without meeting the relevant parties direct. He recalled that when the case was discussed at the last meeting on 6 December 2010, the Administration was requested to advise on the timeframe for completion of investigation. The Administration had indicated that the investigation by REDA and LandsD should be completed fairly quickly since the case was relatively simple. However, the investigation was still ongoing after two and a half months. He asked if LandsD was empowered to take actions against the provision of misleading information to prospective buyers.

26. In response, PSTH(H) said that THB had taken immediate action to send the first email to REDA on 24 November 2010 after the case came to light on 19 November 2010. Until a satisfactory response was received, THB would continue to follow up the case. The Director of Lands (D of L) clarified that she had been exchanging correspondences on the case with the grantee of the development, i.e. the Kowloon-Canton Railway Corporation, and not the development company concerned. Since 30 November 2010, she had written five letters to the grantee regarding the case, and was still awaiting reply from grantee to her fifth letter. D of L said that the correspondence exchanges with the grantee were meant to see whether the conditions under the Consent Scheme had been complied with. The correspondence exchanges were considered appropriate in the circumstances after consultation with the Department of Justice (DOJ) and THB. A meeting with the grantee could be arranged if it was deemed necessary but it was considered appropriate for LandsD to exchange correspondence with the grantee at the present time.

27. Given that the case had dragged on for over two months, Mr WONG Kwok-hing considered that the Administration should commence investigation on the case rather than awaiting reply from the grantee. He enquired if LandsD had set a deadline for the grantee to reply, and the circumstances under which investigation would be carried out. PSTH(H) said that THB was looking into the tone and the context of the statement because it was irresponsible to encourage people to make a last-minute or rushed decision on flat purchase. THB had maintained close liaison with REDA and LandsD to ascertain whether there was any non-compliance with REDA's guidelines and the Consent Scheme. Meanwhile, the Steering Committee was looking at specific issues pertaining to the regulation of sales of first-hand properties by legislation. D of L said that the presale consent was issued to the grantee under the land lease. She would need to collate more information from the grantee before deciding on

the course of actions to be taken. Deadlines had been set for the grantee to reply to her letters, and the deadline for the fifth letter was 11 February 2011. Mr WONG remained of the view that the Administration should not rely on REDA, being a self-regulatory body, to investigate the case. Given the rather straight forward nature of the case involving dissemination of misleading information, he questioned why it had taken so long for LandsD to decide on the course of actions to be taken. PSTH(H) said that the Administration was obliged to follow the established procedures. It would be totally imprudent to arbitrarily come up with a view on the case. D of L added that while she would not consider it appropriate to disclose the content of correspondence exchanges between LandsD and the grantee, the information requested was sought to help LandsD to determine the course of actions to be taken.

28. The Chairman enquired if the Administration still upheld its view that the statement made by the senior executive was a misleading one, as pointed out in the email to REDA dated 24 November 2010. If so, LandsD, being the authority to grant consent on the sales of uncompleted flats, should impose penalties on the provision of misleading information. PSTH(H) said that the Administration remained of the view that the statement, which was not qualified, was misleading. Since REDA was responsible for ensuring compliance with its guidelines, the Administration was awaiting a satisfactory reply from REDA before making a decision on the case. D of L said that the primary purpose of the Consent Scheme was to protect buyers who purchased uncompleted flats. She was not in a position to disclose any further details, including exchange of correspondences with the grantee in order not to prejudge or prejudice any further actions to be taken on this case.

29. Referring to the letter dated 8 December 2010 from REDA to THB which stated that "the crux of the matter lies in the difference in interpretation between Cheung Kong and yourselves regarding the legal status of the Preliminary Agreement of Sale and Purchase under the Consent Scheme", and that "we (REDA) are at a loss as to what follow-up action you are expecting from us", Mr Fred LI questioned why THB still wrote to REDA again and again requesting it to take follow-up actions, particularly when REDA was only a self-regulatory body with no statutory control over its members. If THB upheld the view that the statement made by the senior executive was misleading, it should have written to Cheung Kong direct to demand for explanation. He questioned if THB was afraid to confront Cheung Kong. Expressing similar concerns, Mr LEUNG Kwok-hung also enquired whether and when enforcement actions would be taken against dissemination of misleading information by the senior executive. PSTH(H) said that LandsD was responsible for administering the Consent Scheme while REDA was responsible for ensuring compliance with its guidelines by member developers. As the Consent Scheme worked in parallel with the guidelines, both REDA and LandsD were investigating the case and neither had completed the investigation. THB would continue to press for a

satisfactory answer from REDA. Besides, the issue on the application of SSD was being discussed by the Bills Committee on Stamp Duty (Amendment) (No. 2) Bill 2010.

30. Mr Abraham SHEK declared interest as a non-executive director of MTRCL. He said that REDA was a legal entity and its Compliance Committee had already conducted investigation on the case and concluded that there was no contravention of the guidelines. The crux of the matter rested with the difference in interpretation between Cheung Kong and THB on the legal status of the Provisional Agreement of Sale and Purchase (PASP) under the Consent Scheme. According to REDA's understanding, PASPs containing a "must sell" provision were binding in nature. There was a need for the Administration to clarify the confusion arising from the application of SSD to the resale of properties with PASPs signed on or before 19 November 2010. Ir Dr Raymond HO was also concerned about the uncertainties surrounding the legal status of PASP at this stage. PSTH(H) said that THB had been following up the case in accordance with established procedures. It was looking into the tone and context of the statement, which encouraged people to make a last-minute decision on flat purchase without taking proper legal advice. Parallel actions had been taken by LandsD in the context of the Consent Scheme. Mr SHEK however pointed out people in Hong Kong enjoyed freedom of speech and should not be prohibited from expressing their own views.

31. As REDA had indicated that its Compliance Committee had completed investigation on the case, Ir Dr Raymond HO enquired about the actions that would be taken by the Administration to follow up the case. Mr James TO however failed to understand why REDA was in a position to decide on whether the statement made by the senior executive was misleading or not. He noted that the Administration had not released all the correspondences to the Panel. In the absence of all the correspondences, members would not be able to have a full picture of the case. He cautioned that he might move a resolution to invoke the Legislative Council (Power and Privileges) Ordinance (Cap. 382) to order the production of these correspondences if the Administration refused to do so. The Chairman enquired if THB and LandsD were prepared to release all the correspondence exchanges regarding the case. PSTH(H) reiterated that under normal circumstances, the Administration would not disclose information relating to an issue which was being followed up, so as not to adversely affect and prejudice the ongoing action. However, as REDA had disclosed to the Panel its letters of 8 December 2010 and 10 February 2011 and THB's letter of 9 February 2011, THB had, at the request of the Clerk, passed to the Panel its correspondence to REDA as mentioned in REDA's two letters so that members could understand the matter in a comprehensive manner. The Administration would pass to the Panel further correspondences if REDA was prepared to release them. D of L said that LandsD was still exchanging correspondences with the grantee to ascertain whether the interests of buyers had been compromised. The

information being sought from the grantee would facilitate LandsD in formulating its view on the case. Disclosure of the correspondences might prejudice the ongoing actions. However, if the Chairman so wished, LandsD could approach the grantee to obtain their views as to whether the correspondence exchanges could be released and LandsD would also need to seek advice from DOJ.

32. The Chairman asked again whether the Administration still upheld its view that the statement made by the senior executive was misleading. PSTH(H) confirmed that there was no change to the position stated by PASTH(H)(PH) in his email dated 24 November 2010 to REDA. Ir Dr Raymond HO enquired about the basis upon the Administration considered the statement made by the senior executive "misleading". PSTH(H) said that as briefings for stakeholders, including the Law Society of Hong Kong and estate agencies, on the proposed SSD were only held after 20 November 2010, he could not see how anyone could come up with a definitive statement on the applicability of SSD in the evening of 19 November 2010. The Administration therefore believed that the statement was misleading in the sense that it appeared to encourage people to make a last-minute rush on flat purchase without proper legal advice. The Administration had been exchanging correspondences with REDA in this regard.

33. In concluding, the Chairman said that the Administration had taken an unduly long time to investigate the case. Another meeting would be held to follow up the case upon completion of investigation. Mr James TO said that if the Administration refused to release all the correspondence exchanges regarding the case, he would consider moving a resolution to invoke the Legislative Council (Power and Privileges) Ordinance to order the production of these correspondences. Ir Dr Raymond HO agreed to the need for provision of all the correspondence exchanges on the case. PSTH(H) said that he stood ready to seek REDA's views for the release of the remaining letters. D of L clarified once again that LandsD had not contacted Cheung Kong, the development company and the sales agent of the development, as the presale consent was given to the grantee rather than Cheung Kong. She would continue with the correspondence exchange with the grantee on the case.

## **VII. Any other business**

34. There being no other business, the meeting ended at 7:05 pm.