

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 2525/11-12  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/4/11/2

**Bills Committee on Residential Properties (First-hand Sales) Bill**

**Minutes of sixth meeting**  
**held on Wednesday, 9 May 2012, at 8:30 am**  
**in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon LEE Wing-tat  
Dr Hon Joseph LEE Kok-long, SBS, JP  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon Starry LEE Wai-king, JP  
Hon WONG Kwok-kin, BBS  
Hon IP Kwok-him, GBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon Tanya CHAN
- Members absent** : Hon Vincent FANG Kang, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon Paul CHAN Mo-po, MH, JP  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
- Public officers attending** : **For item I**  
Transport and Housing Bureau  
Mr Eugene FUNG  
Deputy Secretary for Transport and Housing (Special Duties)

Mrs Hedy CHU  
Principal Assistant Secretary for Transport and  
Housing (Special Duties)

Miss Sharon KO  
Senior Administrative Officer (Special Duties) 1

Department of Justice

Mr Lawrence PENG  
Senior Assistant Law Draftsman

Miss Grace LAM  
Senior Government Counsel

Ms Mandy NG  
Government Counsel

Lands Department

Mr Armstrong CHU  
Chief Land Conveyancing Officer/Port and Railway  
Development (Legal Advisory and Conveyancing  
Office)

Mr Ronald MA  
Senior Solicitor/Special Duty(2) (Legal Advisory and  
Conveyancing Office)

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

**Staff in attendance** : Miss Kitty CHENG  
Assistant Legal Adviser 5

Mrs Mary TANG  
Senior Council Secretary (1)1

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**I. Meeting with the Administration**

- (LC Paper No. CB(1) 1598/11-12(03) — Assistant Legal Adviser's letters dated 12 April 2012 to the Administration
- LC Paper No. CB(1) 1598/11-12(04) — Administration's response to CB(1) 1598/11-12(03)
- LC Paper No. CB(1) 1730/11-12(02) — List of follow-up actions arising from the discussion at the meeting on 24 April 2012
- LC Paper No. CB(1) 1730/11-12(03) — Assistant Legal Adviser's letter dated 25 April 2012 to the Administration
- LC Paper No. CB(1) 1779/11-12(01) — Administration's response to CB(1) 1730/11-12(03)
- LC Paper No. CB(1) 1779/11-12(02) — List of follow-up actions arising from the discussion at the meeting on 2 May 2012)

Background information on the Bill

- LC Paper No. CB(3) 570/11-12 — The Bill  
(*issued by the Transport and Housing Bureau on 13 March 2012*) — The Legislative Council Brief
- LC Paper No. LS47/11-12 — Legal Service Division Report

1. The Bills Committee deliberated (Index of Proceedings attached in **Annex**).
2. The Administration was requested to -
  - (a) advise whether the Bill should apply to the sale of car parking spaces in first-hand residential properties;
  - (b) review the drafting of the Chinese rendition of clauses 27(3), (5) and (7) to ensure that these tallied with the English rendition;
  - (c) consider providing in clause 28(2)(a) the specific information to be included in the "description of" a residential property for the sake of clarity;
  - (d) consider replacing the Chinese rendition of "prospective buyer (潛在買方)" under clause 28(4)(b) and other relevant provisions with the more common term of "準買家";

- (e) advise the rationale behind clause 30 as the clause as drafted might preclude any negotiation or expression of interest which was a common practice nowadays. To consider reviewing the drafting of the clause to strike a balance between prevention of manipulation of market and facilitating commercial activities;
- (f) review the need for clause 32(1)(e) taking into account the provisions under clause 32(2);
- (g) advise whether clause 34(4) applied to show flats appeared in advertisements. To also consider allowing greater flexibility for vendors to provide show flats before release of relevant sales brochures since it remained the vendors' responsibility to ensure compliance of the show flats with the Bill;
- (h) consider providing in the Bill a level of tolerance for deviations between show flats (which were provided in accordance with the sales brochures) and the actual flats to be sold (which were built according to approved plans) to ensure that such deviations would not be used as an excuse for rescission of Agreement for Sale and Purchase;
- (i) consider stipulating in clause 40(1) that viewing of a specified residential property should be made available at the request of a prospective buyer, or the number of maximum viewing to be allowed;
- (j) make it clear in clause 41 and other relevant provisions that the comparable property for viewing should be situated at the same residential development; and
- (k) advise whether there was a question of privacy if photo taking under clause 42 was allowed during viewing of flats which had already been occupied.

3. Members agreed to include the following additional meetings in the schedule of meetings of the Bills Committee -

<u>Date</u>	<u>Time</u>
Tuesday, 15 May 2012	10:45 am
Thursday, 17 May 2012	8:30 am
Thursday, 24 May 2012	8:30 am
Thursday, 7 June 2012	8:30 am
Wednesday, 13 June 2012	8:30 am
Tuesday, 19 June 2012	8:30 am to 11:30 am

**II. Any other business**

4. There being no other business, the meeting ended at 10:40 am.

Council Business Division 1  
Legislative Council Secretariat  
5 September 2012

## Bills Committee on Residential Properties (First-hand Sales) Bill

**Proceedings of the sixth meeting  
on Wednesday, 9 May 2012, at 8:30 am  
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item II - Meeting with the Administration</i>			
001050 - 001222	Chairman	Opening remarks.	
001223 - 001423	Administration	Administration's explanation on its response to questions raised by ALA5 in her letter dated 25 April 2012 (LC Paper No.CB(1) 1779/11-12(01)).	
001424 - 002133	Chairman Administration	<p>Continuation of clause-by-clause examination of the Bill</p> <p>Clause 27 - Number of properties to be covered in price list</p> <p>Chairman's view that the Chinese rendition of clauses 27(3), (5) and (7) did not tally with the English rendition.</p> <p>Administration's explanation that the current Chinese rendition conveyed the same meaning as the English rendition.</p>	The Administration to review the drafting of the Chinese rendition of clauses 27(3), (5) and (7) to ensure that these tallied with the English rendition.
002134 - 003339	Administration Chairman Ir Dr Raymond HO Ms Audrey EU	<p>Clause 28 - Contents of price list</p> <p>Chairman's request for providing in clause 28(2)(a) the specific information to be included in the "description of" a residential property for the sake of clarity.</p> <p>Ms Audrey EU's view that developers and conveyancing solicitors were familiar with the use of "description of" a residential property, and should know the types of information to be provided.</p> <p>Ir Dr Raymond HO's request for replacing the Chinese rendition of "prospective buyer (潛在買方)" under clause 28(4)(b) and other relevant provisions with the more common term of "準買家".</p>	<p>The Administration to -</p> <p>(a) consider providing in clause 28(2)(a) the specific information to be included in the "description of" a residential property for the sake of clarity; and</p> <p>(b) consider replacing the Chinese rendition of "prospective buyer (潛在買方)" under clause 28(4)(b)</p>

Time marker	Speaker	Subject(s)	Action required
			and other relevant provisions with the more common term of "準買家".
003340 - 003526	Administration	Clause 29 - Price list to be made available to general public	
003527 - 005253	Administration Ms Audrey EU Chairman	<p>Clause 30 - No expression of intent before price list made available</p> <p>Ms Audrey EU's enquiry/view -</p> <p>(a) the rationale behind clause 30 as the clause as drafted might preclude any negotiation or expression of interest which was a common practice nowadays; and</p> <p>(b) need to review the drafting of the clause to strike a balance between prevention of manipulation of market and facilitating commercial activities.</p> <p>Mr Abraham SHEK's concern that clause 30 as drafted might preclude any negotiation or expression of interest.</p> <p>Administration's explanation -</p> <p>(a) a vendor must not seek and must reject any general or specific expression of intent from any other person on any specified residential properties before copies of the price list setting out their prices were made available;</p> <p>(b) a vendor might seek and accept general and specific expression of intent on and after the first day on which the specified residential property was offered to be sold;</p> <p>(c) where there was a price change, the vendor must revise the price list to reflect the change. The vendor might sell the specified residential property at the price as last revised three days after the issue of the revised price list in accordance with clause 29; and</p>	The Administration to advise the rationale behind clause 30 as the clause as drafted might preclude any negotiation or expression of interest which was a common practice nowadays. To consider reviewing the drafting of the clause to strike a balance between prevention of manipulation of market and facilitating commercial activities.

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		(d) the requirements relating to price list were meant to strike a balance between prevention of manipulation of market and facilitating commercial activities.	
005254 - 005531	Ms Starry LEE Administration	Ms Starry LEE's enquiry on the application of the Bill to the sale of car parking spaces in first-hand residential properties.	The Administration to advise whether the Bill should apply to the sale of car parking spaces in first-hand residential properties.
005532 - 011213	Administration Ms Audrey EU Mr Abraham SHEK	<p>Clause 31 - Sale of specified residential property at price in relevant price list</p> <p>Mr Abraham SHEK's views -</p> <p>(a) more time and efforts should be devoted to the scrutiny of Bill which was an important piece of legislation. However, the holding of a number of meetings at the same time slot had prevented some members' participation in scrutinizing the Bill;</p> <p>(b) the Administration should address the concerns raised by the Real Estate Developers Association (REDA), particularly on the conformity of the Bill with the Basic Law; and</p> <p>(c) need to work out a definition for gross floor area (GFA).</p> <p>Administration's response -</p> <p>(a) a consolidated response to views from deputations, including REDA, was under preparation and would be made available to members soon;</p> <p>(b) the Bill was meant to enhance consumer protection. The legislative proposals to regulate the sale of first-hand residential properties were pursuing the legislative aim of protecting purchasers' interests and the means of regulation were not disproportionate to that aim. Besides, the measures proposed under the Bill would not be considered as inconsistent with the Basic Law and the Bill of</p>	



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		<p>Rights; and</p> <p>(c) there was a standardized definition of saleable area but not a commonly-adopted definition of GFA. It was impossible to work out such a definition in the immediate future as it was not just a matter of what items were to be included in the calculation of GFA, but also how each item was to be measured.</p>	
011214 - 011816	Administration Mr Abraham SHEK	<p>Division 4 - Show Flats for Uncompleted Development or Phase</p> <p>Clause 32 - Interpretation of Division 4: unmodified show flat</p> <p>Mr Abraham SHEK's request for a review of the need for clause 32(1)(e) taking into account the provisions under clause 32(2).</p>	The Administration to review the need for clause 32(1)(e) taking into account the provisions under clause 32(2).
011817 - 011906	Administration	Clause 33 - Interpretation of Division 4: modified show flat	
011907 - 014535	Administration Mr Abraham SHEK Prof Patrick LAU Chairman	<p>Clause 34 - Setting up of show flat</p> <p>Mr Abraham SHEK's enquiry/view -</p> <p>(a) whether clause 34(4) also applied to show flats appeared in advertisements; and</p> <p>(b) greater flexibility should be provided for vendors to provide show flats before release of relevant sales brochures.</p> <p>Administration's response -</p> <p>(a) purchasers should be able to obtain information from the sales brochure, which was the most important source of property information on specified first-hand residential properties, before viewing the show flats; and</p> <p>(b) vendors who wished to allow a longer time span for prospective purchasers to visit the show flats before the commencement of sale might do so once they had made available the sales brochure.</p>	<p>The Administration to -</p> <p>(a) advise whether clause 34(4) applied to show flats appeared in advertisements;</p> <p>(b) consider allowing greater flexibility for vendors to provide show flats before release of relevant sales brochures since it remained the vendors' responsibility to ensure compliance of the show flats with the Bill; and</p> <p>(c) consider providing in the Bill a level of</p>

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		<p>Prof Patrick LAU's view that a level of tolerance should be provided in the Bill for deviations between show flats (which were provided in accordance with the sales brochures) and the actual flats to be sold (which were built according to approved plans) to ensure that such deviations would not be used as an excuse for rescission of Agreement for Sale and Purchase (ASP).</p> <p>Administration's response that under proposed section 23 in Schedule 5 to the Bill, a purchaser would be at liberty to rescind a transaction according to the provision in an ASP for the sale of uncompleted property if there was a difference in measurement exceeding 5% as a result of an alteration of building plans.</p>	<p>tolerance for deviations between show flats (which were provided in accordance with the sales brochures) and the actual flats to be sold (which were built according to approved plans) to ensure that such deviations would not be used as an excuse for rescission of ASP.</p>
014536 - 014803	Administration	Clause 35 - Requirements for unmodified and modified show flats	
014804 - 015054	Administration	Clause 36 - Additional requirements for unmodified show flat	
015055 - 015227	Administration	Clause 37 - Additional requirements for modified show flat	
015228 - 015316	Administration	Clause 38 - Measurements and photographs to be taken in show flat	
015317 - 015344	Administration	Clause 39 - Application of sections 32, 33, 35, 36 and 37 in case of phased development	
015345 - 015915	Administration Ms Audrey EU	<p>Division 5 - Viewing of Property in Completed Development of Phase</p> <p>Clause 40 - Viewing before sale</p> <p>Ms Audrey EU's enquiry on whether consideration could be given to stipulating in clause 40(1) that viewing of a specified residential property should be made available at the request of a prospective buyer, or the number of maximum viewing to be allowed.</p>	<p>The Administration to consider stipulating in clause 40(1) that viewing of a specified residential property should be made available at the request of a prospective buyer, or the number of maximum viewing to be allowed.</p>

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
015916 - 020305	Administration Ms Audrey EU Chairman	Clause 41 - Requirements for comparable residential property for viewing  Ms Audrey EU's view that the Administration should make it clear in clause 41 and other relevant provisions that the comparable property for viewing should be situated at the same residential development.	The Administration to make it clear in clause 41 and other relevant provisions that the comparable property for viewing should be situated at the same residential development.
020306 - 020702	Administration Mr Abraham SHEK	Clause 42 - Measurements and photographs to be taken in residential property for viewing  Mr Abraham SHEK's concern about privacy issues if the vendor was required to allow prospective purchasers to take measurement/photos or make video recordings of a specified residential property with a sitting tenant.	The Administration to advise whether there was a question of privacy if photo taking under clause 42 was allowed during viewing of flats which had already been occupied.
020703 - 020946	Chairman Mr Abraham SHEK	Additional meetings to be included in the schedule of meetings.	