

立法會
Legislative Council

LC Paper No. CB(1) 2594/11-12
(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 seventeenth meeting
held on Thursday, 7 June 2012, at 10:45 am
in Conference Room 2A 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 James TO Kun-sun
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, SBS, JP
Hon LEE Wing-tat
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
- Members absent** : Hon LEE Cheuk-yan
Hon Miriam LAU Kin-yea, GBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Starry LEE Wai-king, JP
Hon Paul CHAN Mo-po, MH, JP
Hon WONG Kwok-kin, BBS
Hon Mrs Regina IP LAU Suk-yea, GBS, JP
Hon Tanya CHAN
- 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

Mr Godfrey KAN
Senior Assistant Solicitor General (Human Rights) (Ag)

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

I. Meeting with the Administration

The Bills Committee deliberated (Index of Proceedings attached in **Annex**).

2. The Administration was requested to -

- (a) advise whether there were channels (other than websites of vendors) through which prospective purchasers could be informed of the number of residential properties in a price list which would be offered for sale;
- (b) advise how the draft Committee Stage amendments (CSAs) to clause 30 could cater for negotiation of prices by purchasers, and the policy intention behind the different time frames in the draft CSAs to clauses 30(1) and (2). To also advise whether it was a contravention for vendors to disclose information on rejection of expression of intent;
- (c) advise the rationale for re-arranging the presentation of the draft CSAs to clauses 64 and 65;
- (d) advise whether the term "individual" in the draft CSAs to proposed section 3 of Schedule 1 covered "partnership", and whether revised CSAs would be introduced if needed; and
- (e) advise whether there was a time limit for application of clause 3(1)(a) such that buildings constructed after a certain period of time would not be regarded as a part of a development with buildings constructed some time ago even if they had similar engineering, structural or architectural connection.

3. Members agreed to continue discussion on the Bill at the next meeting scheduled for Tuesday, 12 June 2012, at 8:30 am.

II. Any other business

4. There being no other business, the meeting ended at 12: 30 pm.

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

**Proceedings of the seventeenth meeting
on Thursday, 7 June 2012, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000000 - 001625	Chairman	With members' agreement, the Chairman ordered a 15-minute break following the commencement of the meeting.	
<i>Agenda Item I - Meeting with the Administration</i>			
001626 - 002957	Chairman Administration Ms Audrey EU	<p>Continuation of examination of the Committee Stage amendments (CSAs) proposed by the Administration (LC Paper No. CB(1) 2070/11-12(01)).</p> <p>Clause 30 - No expression of intent before price list made available</p> <p>Ms Audrey EU's enquiry on the policy intention behind the different time frames in the draft CSAs to clauses 30(1) and (2).</p> <p>Administration's explanation that the objective of clause 30 of the Bill was to set out clearly time point within which vendors might seek and accept expression of intent. The policy intention behind the different time frames for allowing/disallowing vendors to seek and accept various types of expression of intent was to prevent a possible loophole that a vendor might make use of "reservation" as a disguise to start any sale before the first day of sale as announced.</p>	The Administration to advise how the draft CSAs to clause 30 could cater for negotiation of prices by purchasers, and the policy intention behind the different time frames in the draft CSAs to clauses 30(1) and (2).
002958 - 003417	Mr Alan LEONG Chairman Administration	<p>Mr Alan LEONG's enquiry on whether it was a contravention for vendors to disclose information on rejection of expression of intent.</p> <p>Administration's explanation that according to the Bill, it was not a contravention for vendors to disclose information on rejection of expression of intent at any time.</p>	The Administration to advise whether it was a contravention for vendors to disclose information on rejection of expression of intent.
003418 - 003531	Mr Abraham SHEK Chairman Administration	Mr Abraham SHEK's enquiry on the whether a specific expression of interest by estate agents on behalf of purchasers could be allowed.	

Time marker	Speaker	Subject(s)	Action required
		Administration's explanation that vendors might seek and accept specific expression of intent only on and after the first day on which the specified residential property was offered to be sold. This also applied to vendor's acceptance of expression of intent made to them by estate agents on behalf of purchasers. The Administration would, after the passage of the Bill, work with the Estate Agents Authority to facilitate the estate agents to comply with the new requirements.	
003532 - 003640	Administration	Clause 31 - Specified residential property to be sold or offered at price in relevant price list	
003641 - 003747	Administration	Clause 32 - Interpretation of Division 4: unmodified show flat	
003748 - 003802	Administration	Clause 33 - Interpretation of Division 4: modified show flat	
003803 - 004001	Administration Chairman Mr Abraham SHEK	Clause 34 - Setting up of show flat	
004002 - 004024	Administration	Clause 38 - Measurements and photographs to be taken in show flat	
004025 - 004053	Administration	Clause 42 - Measurements and photographs to be taken in residential property for viewing	
004054 - 004110	Administration	Clause 43 - Sales arrangements to be made available on website	
004111 - 004149	Administration	Clause 46 - Floor plan specified residential property	
004150 - 004250	Administration	Division 7 - Preliminary Agreement and Agreement Clause 48 - Deposit an entering into preliminary agreement	
004251 - 004354	Administration	Clause 49 - Execution of agreement for sale and purchase	
004355 - 004628	Administration	Clause 50 - Owner must not enter into preliminary agreement or agreement	

Time marker	Speaker	Subject(s)	Action required
		without certain provisions Clause 50A - Owner must not enter into agreement without certain provisions Clause 50B - provision supplementary to sections 50 and 50A Clause 50C - Offences relating to sections 50 and 50A	
004629 - 004840	Administration Mr Abraham SHEK	Clause 51 - Register of Transactions to be kept by vendor	
004841 - 005433	Administration Mr Abraham SHEK	Clause 52 - Contents of, and entries in, Register of Transactions	
005434 - 005459	Administration	Clause 53 - Register of Transactions to be made available to general public	
005500 - 005516	Administration	Clause 54 - Application of sections 52 and 53 in case of phased development	
005517 - 005648	Administration	Clause 55 - Exception: all residential properties in development or phase sold under single agreement etc. Clause 55A - Exception: property sold or offered to be sold to associated entry	
005649 - 005711	Administration	Clause 56 - Exception and additional requirement: property sold or offered to be sold to sitting tenant	
005712 - 005809	Administration	Clause 58 - Additional requirement: specified residential property in completed development	
005810 - 005912	Administration	Clause 61 - General requirements for advertisement	
005913 - 010321	Administration Mr Abraham SHEK Chairman	Clause 63 - Additional requirements for printed advertisement	
010322 - 010506	Administration Chairman	Clause 64A - Interpretation of Part 4 Clause 65 - Misrepresentation: criminal liability Clause 65A - Misrepresentation: civil liability	

Time marker	Speaker	Subject(s)	Action required
010507 - 010808	Administration Mr Abraham SHEK Chairman	Clause 64B - Part 4 not to affect, limit or diminish other rights	
010809 - 011455	Ms Audrey EU Chairman Administration Mr Abraham SHEK Mr LEE Wing-tat	<p>Ms Audrey EU's enquiry on whether there were channels (other than websites of vendors) through which prospective purchasers could be informed of the number of residential properties in a price list which would be offered for sale.</p> <p>Administration's response that consideration would be given to introducing CSAs to require vendors to also make hard copies of a document containing information on the sales arrangements available for collection by the general public free of charge during a period of at least three days immediately before the date of sale, in addition to making available the information in the vendor's website during the same period.</p>	The Administration to advise whether there were channels (other than websites of vendors) through which prospective purchasers could be informed of the number of residential properties in a price list which would be offered for sale.
011456 - 011616	Ms Audrey EU Administration	<p>Ms Audrey EU's enquiry on the rationale for re-arranging the presentation of the draft CSAs to clauses 64 and 65.</p> <p>Administration's explanation that the setting out of the definitions of "fraudulent misrepresentation" and "reckless misrepresentation" in clause 64A aimed to avoid repeating them in both clauses 65 and 65A.</p>	The Administration to advise the rationale for re-arranging the presentation of the draft CSAs to clauses 64 and 65.
011617 - 011844	Administration Ms Audrey EU Chairman Mr Abraham SHEK	Clause 72 - Liability of officers etc. for offence committed by corporation or specified body	
011845 - 011928	Administration Ms Audrey EU Chairman	Clause 79 - Investigation powers for suspected contravention	
011929 - 011951	Administration	Clause 80 - Offences relating to section 79	
011952 - 012322	Administration Ms Audrey EU Mr Abraham SHEK	<p>Schedule 1</p> <p>Section 2 - Information on vendor and others involved in the development</p>	
012323 - 013320	Ms Audrey EU Administration	Ms Audrey EU's enquiry on whether there was a time limit for application of	The Administration to advise whether

Time marker	Speaker	Subject(s)	Action required
	Mr Abraham SHEK Chairman	<p>clause 3(1)(a) such that buildings constructed after a certain period of time would not be regarded as a part of a development with buildings constructed some time ago even if they had similar engineering, structural or architectural connection.</p> <p>The Administration's explanation that according to the current drafting of the Bill, there was no time limit for the application of clause 3(1)(a). As to whether a building constructed after a certain period of time would be regarded as a part of a development with buildings constructed some time ago, it would depend on the facts of the case concerned.</p>	<p>there was a time limit for application of clause 3(1)(a) such that buildings constructed after a certain period of time would not be regarded as a part of a development with buildings constructed some time ago even if they had similar engineering, structural or architectural connection.</p>
013321 - 013408	Administration	Section 3 - Relationship between parties involved in the development	
013409 - 013435	Administration	Section 10 - Floor plans of residential properties in the development	
013436 - 013450	Administration	Section 15 - Summary of land grant	
013451 - 013706	Administration Mr Abraham SHEK Chairman	Section 18A - Elevation plan	
013707 -014152	Ms Audrey EU Chairman Assistant Legal Adviser 5	<p>Ms Audrey EU's enquiry on whether the term "individual" in the draft CSAs to proposed section 3 of Schedule 1 covered "partnership".</p> <p>The Administration's explanation that the term "individual" did not cover "partnership". It would consider proposing a CSA to cater for the scenario of partnership.</p>	<p>The Administration to advise whether the term "individual" in the draft CSAs to proposed section 3 of Schedule 1 covered "partnership", and whether revised CSAs would be introduced if needed.</p>
014153 - 014210	Chairman	Date of next meeting.	