

**立法會**  
**Legislative Council**

LC Paper No. CB(1)784/12-13  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/1/12

**Bills Committee on Stamp Duty (Amendment) Bill 2012**

**Minutes of second meeting on  
Friday, 25 January 2013, at 8:30 am  
in Conference Room 2 of the Legislative Council Complex**

**Members present** : Hon Starry LEE Wai-king, JP (Chairman)  
Hon LEE Cheuk-yan  
Hon CHAN Kam-lam, SBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon WONG Kwok-hing, MH  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon WONG Ting-kwong, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon Cyd HO Sau-lan  
Dr Hon LAM Tai-fai, SBS, JP  
Hon WONG Kwok-kin, BBS  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
Hon James TIEN Pei-chun, GBS, JP  
Hon WU Chi-wai, MH  
Hon YIU Si-wing  
Hon Charles Peter MOK  
Hon Kenneth LEUNG  
Hon POON Siu-ping, BBS, MH  
Hon TANG Ka-piu  
Dr Hon CHIANG Lai-wan, JP  
Hon Tony TSE Wai-chuen

**Members absent** : Hon James TO Kun-sun (Deputy Chairman)  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon CHAN Yuen-han, SBS, JP  
Hon LEUNG Che-cheung, BBS, MH, JP

**Public officers attending** : Agenda item III

Transport and Housing Bureau

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

Ms Agnes WONG, JP  
Deputy Secretary for Transport and Housing  
(Housing)

Mrs Vicki KWOK  
Principal Assistant Secretary for Transport and  
Housing (Housing) (Private Housing)

Mr Kasper NG  
Senior Administrative Officer (Private Housing)

Financial Services and the Treasury Bureau

Ms Mable CHAN, JP  
Deputy Secretary for Financial Services and the  
Treasury (Treasury) 2

Ms Shirley KWAN  
Principal Assistant Secretary for Financial Services  
and the Treasury (Treasury) (Revenue)

Inland Revenue Department

Mr Richard WONG, JP  
Deputy Commissioner of Inland Revenue  
(Operations)

Ms TSE Yuk-yip, JP  
Assistant Commissioner of Inland Revenue

Mr HONG Wai-kuen  
Senior Superintendent of Stamp Office

Department of Justice

Ms Monica LAW  
Senior Assistant Law Draftsman

Ms Selina LAU  
Senior Government Counsel

**Clerk in attendance:** Ms Annette LAM  
Chief Council Secretary (1)3

**Staff in attendance :** Mr Andy LAU  
Assistant Secretary General 1

Miss Kitty CHENG  
Assistant Legal Adviser 5

Ms Sophie LAU  
Chief Council Secretary (1)2

Miss Rita YUNG  
Council Secretary (1)3

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Action

- I. Late application for membership**  
(LC Paper No. CB(1)454/12-13(01) -- Letter dated 21 January 2013  
(*Chinese version only*) from Hon Tommy CHEUNG  
Yu-yan)

The Chairman referred to Mr Tommy CHEUNG's letter dated 21 January 2013 regarding his late application for membership of the Bills Committee. In accordance with Rule 23(c) of the House Rules, the Bills Committee accepted Mr Tommy CHEUNG's late application.

**II. Paper issued since last meeting**

(LC Paper No. CB(1)452/12-13(01) -- Submission from Hong Kong Christian Council dated 17 January 2013)  
(*English version only*)

2. Members noted that the above paper had been issued since last meeting.

**III. Meeting with the Administration**

(LC Paper No. CB(3)263/12-13 -- The Bill

LC Paper No. CB(1)454/12-13(02) -- Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to members only)

File Ref: Nil -- Legislative Council Brief issued by the Transport and Housing Bureau

LC Paper No. LS17/12-13 -- Legal Service Division Report

LC Paper No. CB(1)427/12-13(01) -- Paper on Stamp Duty (Amendment) Bill 2012 prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(1)469/12-13 -- Administration's paper on (tabled at the meeting and Stamp Duty (Amendment) Bill subsequently issued via email on 25 January 2012) 2012)

3. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

4. The Chairman reminded members that in accordance with rule 83A of the Rules of Procedure (RoP) of the Legislative Council (LegCo), they should disclose the nature of any direct or indirect pecuniary interest before they spoke. The Chairman, Mr James TIEN, Mr Ronny TONG, Mr Kenneth LEUNG, Mr CHAN Kam-lam, Mr Tony TSE, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr YIU Si-wing, Mr POON Siu-ping, Mr WONG Kwok-kin, Mr WU Chi-wai, Mr Abraham

SHEK, Mr Andrew LEUNG, Ms Emily LAU, Mr Paul TSE, Ms Cyd HO made declaration of interests respectively. The Bills Committee had discussed the alternative arrangement of an one-off declaration of interests in writing.

5. In the course of deliberation, members had discussed issues relating to the effectiveness of Special Stamp Duty (SSD) in combating speculation of residential properties, the exemption regime for Buyer's Stamp Duty (BSD), in particular the Administration's decision of not exempting companies whose shareholders were all Hong Kong permanent residents (HKPRs) from BSD, the impact of BSD on redevelopment project and the refunding of BSD for redevelopment, the impact of BSD on Hong Kong's status as a free-market economy, and the setting of a time limit for BSD.

6. The Administration was requested to:

- (a) provide information on the effectiveness of SSD in combating speculation of residential properties since its implementation in November 2010, including breakdown by the number of cases and the amount of SSD involved in respect of holding periods of less than 6 months, 12 months and 24 months;
- (b) provide information on the number of transactions and its percentage of the total transactions in respect of acquisition of residential properties by a company in the past three years, with breakdown by the amount or value of the consideration of residential properties of \$20 million, \$25 million and \$30 million, as well as the number of resale cases within one year, two years and three years after the acquisition;
- (c) consider exempting companies whose shareholders are all HKPRs from BSD by way of a self-declaration mechanism;
- (d) consider exempting companies from the BSD on condition that the shareholders of the companies undertake that the properties acquired would not be sold within three years;
- (e) consider exempting companies from the BSD when they acquire a residential property for redevelopment purpose;
- (f) consider setting a time limit of, say 24 or 36 months, for BSD; and

- (g) provide information on measures adopted by other economies in managing demand for residential properties from non-local buyers as well as overseas experiences in relation to the BSD, including the rate/percentage of BSD, exemption mechanism and effectiveness.

*(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)511/12-13(02) on 4 February 2013.)*

- 7. The Chairman reminded members that the next meeting would be held on Monday, 4 February 2013 at 2:30 pm.

**IV. Any other business**

- 8. There being no other business, the meeting ended at 10:33 am.

Council Business Division 1  
Legislative Council Secretariat  
28 March 2013

**Proceedings of the second meeting of  
the Bills Committee on Stamp Duty (Amendment) Bill 2012  
on Friday, 25 January 2013, at 8:30 am  
in Conference Room 2 of the Legislative Council Complex**

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
<b>Agenda Item I – Late application for membership</b>			
000600 – 000638	Chairman	Late application for membership by Mr Tommy CHEUNG	
000639 – 001353	Chairman Mr James TIEN Mr Ronny TONG Mr Kenneth LEUNG Mr CHAN Kam-lam Mr Tony TSE Assistant Legal Adviser (ALA) Mr Tommy CHEUNG Mr Jeffrey LAM Mr WONG Ting-kwong Mr YIU Si-wing Mr POON Siu-ping	Disclosure of direct or indirect pecuniary interest by members  Discussion on alternative arrangement of an one-off declaration of interests in writing	
<b>Agenda Item II – Paper issued since last meeting</b>			
001354 – 001412	Chairman	Members noted that a submission from Hong Kong Christian Council dated 17 January 2013 (LC Paper No. CB(1)452/12-13(01)) had been issued since last meeting.	
001413 – 001507	Chairman Mr WONG Kwok-kin Mr WU Chi-wai	Disclosure of direct or indirect pecuniary interest by members	
<b>Agenda Item III – Meeting with the Administration</b>			
001508 – 003000	Chairman Administration	General introduction of the Stamp Duty (Amendment) Bill 2012 (the Bill) by the Administration (LC Paper No. CB(1)469/12-13)	
003001 – 003046	Chairman Mr Abraham SHEK	Disclosure of direct or indirect pecuniary interest by Mr Abraham SHEK	
003047 – 003551	Chairman Mr James TIEN Administration	Mr James TIEN enquired whether the Administration had sought legal advice on whether the imposition of Buyer's Stamp Duty (BSD) would give property developers a case to seek redress in law against the Administration in respect of land purchased in Government auction or tender	

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		<p>before the introduction of BSD as the new measure might lower non-local buyers' interest in acquiring residential properties, and thus reducing the number of potential buyers.</p> <p>The Administration explained that the enactment of the new legislation to apply the enhanced Special Stamp Duty (SSD) and BSD would not create any inconsistencies with the conditions of sale of Government land through auction or tender.</p> <p>In response to Mr James TIEN's enquiry on BSD and SSD, the Administration advised that BSD at a flat rate of 15% would apply to all residential properties acquired by any person, except a Hong Kong Permanent Resident (HKPR). The objective was to accord priority to HKPR buyers over non-HKPR buyers. SSD was chargeable in accordance with the SSD rates set in respect of different holding periods within which the concerned residential property was resold.</p>	
003552 – 004031	Chairman Mr Kenneth LEUNG Administration	<p>Mr Kenneth LEUNG enquired –</p> <p>(a) about the application of BSD to a partnership or a trust; and</p> <p>(b) whether the Administration would consider exempting religious and/or charitable organizations in Hong Kong from BSD.</p> <p>The Administration responded that –</p> <p>(a) it was the policy intent that BSD should be levied on agreements for sale and conveyances on sale of residential properties executed by any person (including companies, partnership, and trust) except a HKPR acting on his or her own behalf in the acquisition of the residential property, or except for a HKPR who was a minor or a mentally incapacitated person who, due to the lack of capacity to enter into legally binding agreements, must in practice require another person to act on his own her own behalf; and</p> <p>(b) the Bill proposed that exemption to BSD would be granted in the case of a gift of residential properties to charitable institutions</p>	



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		<p>exempted from tax under section 88 of the Inland Revenue Ordinance (Cap. 112). The Administration would study the suggestion to exempt the acquisition of residential properties by religious and/or charitable organizations from BSD.</p>	
004032 – 005231	Chairman Mr Abraham SHEK Administration	<p>Mr Abraham SHEK expressed the following views and concerns –</p> <ul style="list-style-type: none"> <li>(a) the effectiveness of SSD in addressing the overheated residential property market was doubtful given the continued surge in residential property prices despite the implementation of the SSD since November 2010 and the announcement of the enhanced SSD and BSD on 26 October 2012;</li> <li>(b) the enhanced SSD would affect vendors' willingness to sell and reduce the supply of residential stock in the secondary market;</li> <li>(c) BSD would, in effect, deter HKPR-owned companies from purchasing residential properties. Article 105 of the Basic Law protected the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property. Companies whose shareholders were all HKPRs should be exempted from BSD by way of a self-declaration mechanism;</li> <li>(d) BSD would have adverse impact on private property developers' interest in property redevelopment, as BSD had to be paid upfront as and when individual units were acquired, and it might take years before the BSD paid could be refunded; and</li> <li>(e) the Administration should consider exempting companies from BSD when they acquire a residential property for redevelopment purpose.</li> </ul> <p>The Administration responded that –</p> <ul style="list-style-type: none"> <li>(a) SSD had been effective in curbing short-term speculative activities since its implementation in November 2010. After the enactment of</li> </ul>	<p>The Administration to follow up as stated in paragraphs 6(a) and 6(c) of the minutes.</p>

Time Marker	Speaker	Subject(s)	Action required
		<p>enabling legislation for SSD, the number of confirmor and resale cases within 24 months had dropped significantly in 2011 by 42.5% as compared with 2010. A further drop of 56% was recorded in 2012 as compared with 2011;</p> <p>(b) the exuberant state of the residential property market was due to a combination of various factors, including the overall demand and supply imbalance, the influx of capital, the ultra-low interest rate environment, etc;</p> <p>(c) BSD did not prohibit HKPR-owned companies from buying residential property, but only increase the cost of property transaction;</p> <p>(d) it was inappropriate to exempt companies from the BSD simply on the basis that their shareholders were HKPRs. In law, a company was an entity independent of its shareholders. Under the law of Hong Kong, companies were distinguished by whether they were incorporated locally or overseas, instead of making reference to the HKPR status of shareholders;</p> <p>(e) the suggested self-declaration mechanism failed to tackle the problem that the HKPR shareholders could circumvent the BSD through transferring property entitlement to non-HKPR shareholders; and</p> <p>(f) exemption from BSD for private property developer was difficult before there was solid proof that an acquisition of a residential property was for the purpose of redevelopment and that it could subsequently fulfill the various conditions for exemption. A refund mechanism was proposed whereby the BSD paid for the acquisition of residential properties for the construction of immovable properties would be refunded provided that the immovable properties being constructed were completed within six years, with extension allowed in specific circumstances. To cater for the actual operation of redevelopment, for BSD purpose, the</p>	

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		<p>"six-year period" would start counting when the relevant developer had become the owner of the entire lot of the redevelopment concerned.</p>	
005232 – 005759	Chairman Mr WONG Kwok-hing Administration	<p>While supporting BSD which aimed to accord priority to housing demands of local buyers, Mr WONG Kwok-hing questioned –</p> <p>(a) whether BSD at a flat rate of 15% would be effective in reducing Mainland buyers' demand for properties, given the depreciation of Hong Kong dollar against Renminbi; and</p> <p>(b) whether the Administration would consider extending SSD to cover first-hand residential units sold by property developers long after the issue of occupation permit, so as to deter hoarding by private property developers.</p> <p>The Administration responded that –</p> <p>(a) the BSD rate of 15% was considered appropriate. In fact, the share of residential property market transactions taken up by non-local buyers had decreased after the announcement of BSD on 26 October 2012. The Administration had also made reference to the similar measures adopted by some overseas jurisdictions in relation to the purchase of residential properties by non-locals; and</p> <p>(b) the commercial decision of property developers on when to sell their residential properties in the primary market was determined by various factors. The current vacancy rate of residential units at about 4% was relatively low. The Administration had no intention to apply SSD to the sale of first-hand properties at the moment.</p>	
005800 – 010649	Chairman Mr Jeffrey LAM Administration	<p>Mr Jeffrey LAM's views that HKPR-owned companies should be exempted from BSD on condition that shareholders of the companies undertook that the properties acquired would not be sold within three years as some companies purchased residential properties for using as staff quarters and not for speculation.</p>	<p>The Administration to follow up as stated in paragraphs 6(b) and 6(d) of the minutes.</p>

Time Marker	Speaker	Subject(s)	Action required
		<p>The Administration responded that –</p> <ul style="list-style-type: none"> <li>(a) there were concerns that the share of residential property market transactions taken up by non-local buyers was on a general uptrend, rising from 4.5% of all transactions in 2010 to 6.5% in 2011;</li> <li>(b) the objective of BSD was to accord priority to HKPR buyers over non-HKPR buyers under the current market situation. Following the announcement of BSD on 26 October 2012, the share of residential property market transactions taken up by non-local buyers was estimated to have declined to 3%; and</li> <li>(c) exempting company buyers from BSD would seriously undermine the effectiveness of BSD. In view of the complicated structure of a company, HKPR shareholders could circumvent BSD through transferring property entitlement to non-HKPR shareholders by ways of nomination, declaration of trust or authorization, allotment of new shares, or issue of new class of shares, etc.</li> </ul>	
010650 – 011327	Chairman Mr Tony TSE Administration	<p>Mr Tony TSE supported in principle the introduction of the enhanced SSD and BSD to mitigate further exuberance in the private residential property market. Mr TSE enquired –</p> <ul style="list-style-type: none"> <li>(a) whether the BSD refund mechanism would be extended to cover refurbishment of residential properties;</li> <li>(b) how the "six-year period" of the BSD refund mechanism would be calculated in the case of a redevelopment project involving lease modification; and</li> <li>(c) whether BSD was chargeable on the acquisition of a composite building comprising both residential and non-residential units.</li> </ul> <p>The Administration responded that –</p>	

Time Marker	Speaker	Subject(s)	Action required
		<p>(a) the BSD refund mechanism did not cover acquisition of residential property for refurbishment or renovation. While the Administration welcomed private sector initiatives to rehabilitate old buildings, the Administration did not consider that the acquisition and wholesale renovation of properties by investors supported the policy objective of the demand-side management measures;</p> <p>(b) in the scenario where lease modification was required when a lot was acquired, the "six-year period" started to run from the completion of first such lease modification of the lot; and</p> <p>(c) whether an agreement for sale of a property was chargeable with BSD was determined according to the permitted use of the property. According to the definition of "non-residential property" in section 29A(1) of the Stamp Duty Ordinance (Cap. 117) (SDO), a Government lease, a deed of mutual covenant, or an Occupation Permit could be used in determining whether the permitted use of a property was residential or non-residential.</p>	
011328 – 011637	Chairman Mr Andrew LEUNG Mr Tommy CHEUNG Administration	<p>Disclosure of direct or indirect pecuniary interest by Mr Andrew LEUNG</p> <p>Mr Andrew LEUNG opined that the Administration should consider exempting companies whose shareholders were all HKPRs from BSD.</p> <p>Mr Andrew LEUNG and Mr Tommy CHEUNG enquired whether BSD and SSD would apply to the acquisition of a "dual-use" (i.e. commercial and residential) property.</p> <p>The Administration responded that -</p> <p>(a) exempting companies from BSD might lead to tax evasion as property transfer to non-HKPR could be effected through a transfer of company of shares which was not BSD-chargeable; and</p>	

Time Marker	Speaker	Subject(s)	Action required
		<p>(b) a property was regarded as a residential property if the permitted use of the property under the SDO was wholly or partly to be used for residential purposes. If an agreement for sale involved both residential and non-residential units, it was regarded as an agreement for sale of a residential property that was liable to stamp duty including ad valorem duty, the SSD and the BSD, if applicable.</p>	
011932 – 012214	Chairman Mr WU Chi-wai Administration	<p>Mr WU Chi-wai enquired about the experience of and measures adopted by overseas jurisdictions in relation to the purchase of residential properties by non-locals.</p> <p>The Administration responded that it had studied the cases of Singapore, Australia and Macau in relation to the purchase of residential properties by non-locals. The Administration emphasized that different jurisdictions would make reference to their own specific circumstances and legal systems in formulating measures and policies and the overseas experiences mainly served as a reference.</p>	The Administration to follow up as stated in paragraph 6(g) of the minutes.
012215 – 012859	Chairman Ms Emily LAU Administration	<p>Disclosure of direct or indirect pecuniary interest by Ms Emily LAU</p> <p>Ms Emily LAU's views and concerns –</p> <p>(a) supported in principle the introduction of the enhanced SSD and BSD to mitigate further exuberance in the private residential property market;</p> <p>(b) concerned about the effectiveness of the proposed measures in view of the continued surge in residential property prices despite the implementation of SSD and the announcement of new measures; and</p> <p>(c) the Administration should continue to increase land and flat supply to tackle the housing problem at source as soon as practicable.</p> <p>The Administration responded that –</p> <p>(a) the current exuberant situation in the</p>	

Time Marker	Speaker	Subject(s)	Action required
		<p>residential property market was the combined result of various factors, including the overall demand and supply imbalance, abundant liquidity, the ultra-low interest rate environment, etc; and</p> <p>(b) the Chief Executive had announced in his 2013 Policy Address a number of short to medium term housing and land supply measures to address the supply-demand imbalance. It was estimated that a total of 67 000 first-hand units should come on the private residential property market in the next three to four years.</p>	
012900 – 013609	Chairman Mr Paul TSE Administration	<p>Disclosure of direct or indirect pecuniary interest by Mr Paul TSE</p> <p>Mr Paul TSE's views and enquiries –</p> <p>(a) BSD, which deterred non-HKPRs and companies whose shareholders were all HKPRs from buying residential properties, was a discriminatory measure that would undermine the reputation and status of Hong Kong as a free-market economy; and</p> <p>(b) whether any overseas jurisdictions had adopted similar measures to restrict the purchase of residential properties by non-locals.</p> <p>The Administration responded that –</p> <p>(a) BSD, as a demand-side management measure, was an extraordinary measure introduced under the current exceptional circumstances. The Administration would consider withdrawing it after the demand-supply situation of the property market had regained its balance;</p> <p>(b) BSD did not prohibit non-locals from acquiring residential property, but only increased the cost of the transaction; and</p> <p>(c) certain overseas jurisdictions such as the United Kingdom, Australia, Singapore and Macau had adopted similar measures in</p>	The Administration to follow up as stated in paragraph 6(g) of the minutes.

Time Marker	Speaker	Subject(s)	Action required
		relation to the purchase of residential properties by non-locals.	
013610 – 014007	Chairman Ms Cyd HO Administration	<p>Disclosure of direct or indirect pecuniary interest by Ms Cyd HO</p> <p>Ms Cyd HO's views and concerns –</p> <ul style="list-style-type: none"> <li>(a) supported in principle Administration's measures to curb short-term speculative activities in the residential property market;</li> <li>(b) increasing land and flat supply was the ultimate solution to address the continued exuberant state of the residential property market; and</li> <li>(c) many units in certain old commercial buildings in older districts were used by the occupants for residential purpose. As SSD and BSD did not apply to commercial properties, there were concerns that prices of such properties would be fueled up by speculative activities.</li> </ul> <p>In response to Ms HO's enquiry about the number of commercial properties that were used for residential purpose, the Administration responded that it would be extremely difficult to gather such information as ascertaining the current actual use of a particular unit would require right of access to the premises.</p>	
014008 – 014524	Chairman Mr James TIEN Administration	<p>Mr James TIEN's views and enquiries –</p> <ul style="list-style-type: none"> <li>(a) BSD was a discriminatory and protectionist measure against overseas buyers and would undermine Hong Kong's image of an international financial centre;</li> <li>(b) the Administration should consider setting a time limit for BSD; and</li> <li>(c) whether an acquisition of a bare site, after the seller had demolished the original properties on the land, would be subject to BSD.</li> </ul> <p>The Administration responded that –</p>	The Administration to follow up as stated in paragraph 6(f) of the minutes.



Time Marker	Speaker	Subject(s)	Action required
		<p>(a) some overseas countries such as Singapore, Macau, Australia etc had imposed restrictions on the purchase of residential properties by non-locals;</p> <p>(b) the Administration did not consider it possible to pre-determine a date on which BSD would be deemed no longer necessary. To have the necessary flexibility to adjust the applicable rates of SSD and BSD (to zero if necessary) in a timely manner with reference to the market situation, the Administration had proposed in the Bill that adjustments to the SSD and BSD rates should be made by means of subsidiary legislation subject to negative vetting by the Legislative Council; and</p> <p>(c) an acquisition of a residential bare site in the secondary market would be subject to BSD.</p>	
014525 – 015126	Chairman Mr Abraham SHEK Administration	<p>Mr Abraham SHEK's views –</p> <p>(a) given that BSD would apply to residential properties acquired by companies (irrespective of whether these companies were held by HKPR or otherwise), the measure might indiscriminately affect genuine home buyers, such as HKPR home-buyers acquiring residential properties in the name of companies, and overseas companies purchasing residential properties in Hong Kong for using as staff quarters. Company buyers whose shareholders were solely HKPRs should be exempted from BSD; and</p> <p>(b) BSD would reduce private property developers' interest in property redevelopment thereby hindering redevelopment, reducing the supply of residential stock and driving up property prices.</p> <p>The Administration responded that –</p> <p>(a) the structure of a company could be complicated and could take various forms. A registered company might involve a huge number of shareholders, and some of them might be corporate bodies incorporated</p>	The Administration to follow up as stated in paragraph 6(e) of the minutes.

Time Marker	Speaker	Subject(s)	Action required
		<p>overseas which were not required to provide information on their shareholders to the Stamp Office or Companies Registry. It would call into question how many tiers of company structure should be captured by the suggested self-declaration mechanism for the purpose of verifying the identity of the ultimate shareholders. Therefore it was extremely difficult to put in place a mechanism that could effectively cover all scenarios and plug all the loopholes identified; and</p> <p>(b) a BSD refund mechanism was proposed for redevelopment projects.</p>	
015127 – 015507	Chairman Mr Kenneth LEUNG Administration	<p>Mr Kenneth LEUNG shared the Administration's views that –</p> <p>(a) BSD did not prohibit non-locals from buying residential property, but only increase the cost of the transaction; and</p> <p>(b) in view of the complicated structure of a company, the shareholders could circumvent BSD through transferring property entitlement to non-HKPR shareholders by various ways.</p>	
015508 – 020159	Chairman Mr Ronny TONG Administration	<p>Mr Ronny TONG suggested that, to plug the loophole of tax evasion, the Administration should set out in more explicit terms that any non-HKPR acquiring residential property either on his or her own behalf or in the name of a company or through share transfer of "property holding companies" would be liable to BSD.</p> <p>In response to Mr TONG's enquiry about the applicability of BSD on joint tenancy and transfer of a residential property in the form of a gift, the Administration advised that -</p> <p>(a) ad valorem stamp duty was not chargeable in the case of a transfer of property by virtue of a right of survivorship in joint tenancy under the existing SDO. As an instrument not chargeable with ad valorem stamp duty would not be charged with BSD, BSD would not be applicable in the above scenario under the</p>	

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		Bill; and  (b) transfer of a residential property in the form of a gift from a HKPR to a non-HKPR (except close relatives, i.e. spouse, parents, children, brothers and sisters) would be subject to BSD.	
020200 – 020335	Chairman	Meeting arrangements	

Council Business Division 1  
Legislative Council Secretariat  
28 March 2013