

立法會
Legislative Council

LC Paper No. CB(1)340/13-14
(These minutes have been seen
by the Administration)

Ref : CB1/BC/1/12

Bills Committee on Stamp Duty (Amendment) Bill 2012

Minutes of fifth meeting on
Thursday, 28 February 2013, at 4:30 pm
in Conference Room 2 of the Legislative Council Complex

Members present : Hon Starry LEE Wai-king, JP (Chairman)
Hon James TO Kun-sun (Deputy 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 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 Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon James TIEN Pei-chun, GBS, JP
Hon WU Chi-wai, MH
Hon Charles Peter MOK
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
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 Jeffrey LAM Kin-fung, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon YIU Si-wing

Public officers attending : Agenda item I

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)

Financial Services and the Treasury Bureau

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 : Miss Kitty CHENG
Assistant Legal Adviser 5

Ms Sophie LAU
Chief Council Secretary (1)2

Miss Rita YUNG
Council Secretary (1)3

Action

I. Meeting with the Administration

(LC Paper No. CB(1)511/12-13(01) -- List of follow-up actions arising from the discussion at the meeting on 25 January 2013

LC Paper No. CB(1)511/12-13(02) -- Administration's response to issues raised at the meeting on 25 January 2013

LC Paper No. CB(1)598/12-13(01) -- List of follow-up actions arising from the discussion at the meeting on 4 February 2013

LC Paper No. CB(1)598/12-13(02) -- Administration's response to issues raised at the meeting on 4 February 2013

LC Paper No. CB(1)511/12-13(03) -- Hon Tony TSE Wai-chuen's letter dated 25 January 2013
(*English version only*)

LC Paper No. CB(1)554/12-13(01) -- Administration's response to Hon Tony TSE Wai-chuen's letter dated 25 January 2013

- LC Paper No. CB(1)511/12-13(04) -- Hon James TO Kun-sun's
(*Chinese version only*) letter dated 30 January 2013
- LC Paper No. CB(1)562/12-13(01) -- Administration's response to
Hon James TO Kun-sun's
letter dated 30 January 2013
- LC Paper No. CB(1)521/12-13(02) -- Letter from Assistant Legal
Adviser to the Administration
dated 1 February 2013
- LC Paper No. CB(1)561/12-13(01) -- Administration's response to
Assistant Legal Adviser's
letter dated 1 February 2013
to the Administration
- LC Paper No. CB(1)598/12-13(03) -- List of follow-up actions
arising from the discussion at
the meeting on 18 February
2013
- LC Paper No. CB(1)598/12-13(04) -- Letter from Assistant Legal
Adviser to the Administration
dated 20 February 2013

Relevant papers issued previously

- 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)

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

2. The Chairman reminded members that under rule 83A of the Rules of Procedure (RoP) of the Legislative Council, they should disclose the nature of any direct or indirect pecuniary interest before they spoke.

3. The Chairman, Mr Ronny TONG, Mr Alan LEONG, Mr Tony TSE, Mr POON Siu-ping, Mr James TO, Mr Abraham SHEK, and Mr LEUNG Che-cheung made declaration of interests respectively.

4. 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 impact of SSD on the supply of residential properties in the secondary market, the rationale and justifications for increasing the SSD rates for the existing holding periods and lengthening the holding period to 36 months, as well as the impact of the Buyer's Stamp Duty (BSD) on redevelopment project and the refunding of BSD for redevelopment.

5. The Administration was requested to:

- (a) provide information on the economic analysis conducted when formulating the new demand-side management measures of enhanced SSD and the BSD;
- (b) in respect of the number of resale cases within 24 months after assignment set out in Table 1(a) of Annex A to the Administration's response to the issues raised at the meeting of the Bills Committee held on 4 February 2013 (LC Paper CB(1)598/12-13(02)), provide the number of cases which were subject to SSD; and
- (c) address members' concern about the adverse impact of BSD on private property developers' interest in property redevelopment.

(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)715/12-13(01) on 15 March 2013.)

II. Any other business

6. There being no other business, the meeting ended at 6:20 pm.

Action

- 6 -

Council Business Division 1
Legislative Council Secretariat
18 November 2013

**Proceedings of the fifth meeting of
the Bills Committee on Stamp Duty (Amendment) Bill 2012
on Thursday, 28 February 2013, at 4:30 pm
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000523 – 000619	Chairman	Opening remarks	
000620 – 000735	Chairman Mr Ronny TONG Mr Alan LEONG Mr Tony TSE Mr POON Siu-ping Mr James TO Mr Abraham SHEK Mr LEUNG Che-cheung	Disclosure of direct or indirect pecuniary interest by members	
000736 – 001524	Chairman Administration	Briefing by the Administration on its response to the issues raised at the meetings of the Bills Committee held on 25 January and 4 February 2013 respectively (LC Paper Nos. CB(1)511/12-13(02) and CB(1)598/12-13(02))	
001525 – 002312	Chairman Mr James TO Administration	In response to Mr James TO's enquiry about the numbers of resale cases as set out in Table 1(a) in Annex A of the Administration's response to the issues raised at the meeting of the Bills Committee held on 4 February 2013 (LC Paper No. CB(1)598/12-13(02)), the Administration advised that those cases referred to short-term resale cases within 24 months after assignment, as well as confirmor transactions. Such cases were not subject to the Special Stamp Duty (SSD) if the residential properties were acquired before the introduction of SSD on 20 November 2010. As at end 2012, 1 836 SSD cases had been recorded. The Administration added that there was no legal definition of "speculative activities".	
002313 – 003000	Chairman Mr Tony TSE Administration	Mr Tony TSE's views and concerns – (a) supported the Administration's proposal to increase the SSD rates of the different holding periods as the existing 5% SSD rate of the holding period of 12 to 24 months had limited effect;	The Administration to follow up as stated in paragraph 5(c) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>(b) did not support the proposal to increase the coverage period of the enhanced SSD from 24 months to 36 months, as it would further reduce the supply of residential properties in the secondary market;</p> <p>(c) the Buyer's Stamp Duty (BSD) would have adverse impact on private property developers' interest in property redevelopment, as BSD had to be paid upfront as and when individual residential units were acquired, and it might take years before the BSD paid could be refunded, creating huge financial burden on private property developers; and</p> <p>(d) suggested the Administration to enhance the BSD refund mechanism for redevelopments, such as refunding the BSD when the existing building on the lot had been demolished or the building plan of the redevelopment had been approved.</p> <p>The Administration's response –</p> <p>(a) the policy intent was that the BSD should not hinder redevelopments. A refund mechanism was proposed whereby the BSD paid for the acquisitions of the residential properties for redevelopment purpose would be refunded provided that the immovable properties being constructed were completed within six years, with extension allowed in specific circumstances;</p> <p>(b) to cater for the actual operation of redevelopment, for BSD purposes, the “six-year period” would start counting when the relevant developer had become the owner of the entire lot of the redevelopment concerned. The developer would be considered to have completed the construction if it had obtained, within six years thereafter, the Occupation Permit (OP) in respect of the redevelopment, or the first OP if there was more than one for the entire redevelopment; and</p> <p>(c) exemption from or earlier refund of the BSD was difficult before there was solid proof that</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>an acquisition of a residential property was for the purpose of redevelopment and that it could subsequently fulfill the various conditions for exemption or refund.</p>	
<p>003001 – 003854</p>	<p>Chairman Mr Abraham SHEK Administration</p>	<p>Mr Abraham SHEK's views and enquiries –</p> <ul style="list-style-type: none"> (a) BSD would have adverse impact on private property developers' interest in property redevelopment, having the effect that redevelopment projects might be dominated by the Urban Renewal Authority in the future; (b) whether SSD would be applicable when a person entered into a Provisional Agreement for Sale and Purchase as purchaser to purchase a property, and subsequently added his/her spouse as co-purchaser in the Agreement for Sale and Purchase; (c) SSD had only benefitted property developers in the primary market as SSD would affect vendors' willingness to sell and reduce the supply of residential properties in the secondary market, thus driving property prices up; and (d) flat prices had increased by nearly 35% since November 2010 when SSD was introduced. Genuine home buyers were therefore affected. <p>The Administration's response –</p> <ul style="list-style-type: none"> (a) for SSD purpose, a chargeable agreement for sale included both the Provisional Agreement for Sale and Purchase and the Agreement for Sale and Purchase; (b) adding the name of the spouse as co-purchaser in a chargeable agreement for sale or a conveyance on sale in respect of a residential property would be exempted from the SSD; (c) the current 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; and 	

Time marker	Speaker	Subject(s)	Action required
		<p>(d) the SSD, being a demand-side management measure, aimed to provide a disincentive for speculators and short-term investors to purchase residential properties. As most genuine home buyers generally would not resell residential properties they acquired within a short period, the SSD therefore should not have a significant effect on the supply of flats held by these end-users. The Administration saw no significant impact of the SSD on the overall supply of residential property for sale.</p>	
003855 – 004812	Chairman Mr James TO Administration	<p>Mr James TO's views –</p> <p>(a) the SSD had been very effective in curbing resale cases within 6 months, as the number of such cases had been significantly reduced from 2 617 cases in 2011 to 83 cases in 2012; and</p> <p>(b) therefore there was no need to increase the existing 15% SSD rate of the holding period of 6 months or less to 20%.</p> <p>The Administration's response –</p> <p>(a) SSD had been most effective in curbing confirmor cases and resale cases within 6 months. However, there were signs that the effect of SSD diminished beyond the first year after acquisition. There was a significantly large number of resale cases taking place between 12 and 24 months. This was due largely to the substantial rise in prices which effectively discounted the 5% SSD rate; and</p> <p>(b) the Administration therefore saw a need to provide a stronger disincentive for speculators and short-term investors by increasing the SSD rates across the board for the existing holding period, and lengthening the holding period within which residential property transactions would be subject to SSD.</p>	

Time marker	Speaker	Subject(s)	Action required
004813 – 005449	Chairman Mr Tony TSE Administration	<p>Mr Tony TSE's views –</p> <ul style="list-style-type: none"> (a) SSD would affect vendors' willingness to sell and reduce the supply of residential properties in the secondary market; (b) did not support the proposal to lengthen the coverage period of SSD from 24 months to 36 months, as it would further reduce the supply of residential properties in the secondary market; and (c) the Administration should set a time limit for the SSD and BSD, or specific target indicators for the withdrawal of the SSD and BSD. <p>The Administration's response –</p> <ul style="list-style-type: none"> (a) the SSD, being a demand-side management measure, aimed to provide a disincentive for speculators and short-term investors to purchase residential properties. With most speculators driven out of the residential property market, the end result would be a more healthy market of end-users. The Administration saw no significant impact of the SSD on the overall supply of residential property for sale; (b) the current exuberant state of the residential property market was due to a combination of various factors, among which most were external factors including influx of capital and ultra-low interest rate environment; (c) the Administration did not consider it possible to pre-determine a date on which the SSD and BSD would be deemed no longer necessary; and (d) the SSD and BSD were extraordinary measures introduced under the current exceptional circumstances. The Administration would consider withdrawing these measures after the demand-supply situation of the property market had regained its balance. 	

Time marker	Speaker	Subject(s)	Action required
005450 – 010005	Chairman Mr WU Chi-wai Administration	<p>Mr WU Chi-wai's views and concerns –</p> <p>(a) whether the supply of residential properties in the secondary market would gradually increase in 2013 when properties bought in the early months after the introduction of the SSD reached the end of the two-year SSD coverage period, thus leading to a drop in property prices; and</p> <p>(b) the Administration should provide information on the newly announced proposal to increase the ad valorem stamp duty (AVD) rates to the Bills Committee to facilitate members' consideration of the combined effect of the SSD, BSD and the proposed increase of AVD rates on the property market.</p> <p>The Administration's response –</p> <p>(a) the SSD and BSD undoubtedly helped cool down the residential property market towards the end of 2012. Transactions plunged sharply as speculative activities and non-local demand was significantly reduced; and</p> <p>(b) on the new round of measures to address the overheated property market announced on 22 February 2013, including the proposal to increase the AVD rates on transactions for residential as well as non-residential properties, the Administration planned to introduce another amendment bill into the Legislative Council (LegCo) as soon as practicable for implementation of the proposed measures.</p> <p>The Chairman advised that after the relevant amendment bill was introduced into LegCo, it would be referred to the House Committee to allow Members to consider whether it was necessary to form a Bills Committee to study the bill in detail.</p>	
010006 – 010508	Chairman Mr Kenneth LEUNG Administration	<p>Mr Kenneth LEUNG considered that the current state of continued rise in residential property prices was largely due to external factors outside the Administration's control such as the ultra-low interest rate environment. The enhanced SSD, which aimed to further increase the cost of</p>	<p>The Administration to follow up as stated in paragraph 5(a) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>speculation, might not necessarily be effective in bringing down the property prices.</p> <p>Mr Kenneth LEUNG requested the Administration to provide information on the economic analysis conducted when formulating the new demand-side management measures of the enhanced SSD and the BSD.</p>	
010509 – 011314	Chairman Mr Abraham SHEK Administration	<p>Mr Abraham SHEK's views and concerns –</p> <p>(a) supported the Administration's target to combat short-term speculative activities in the residential property market to ensure the market's healthy and stable development; and</p> <p>(b) SSD would affect vendors' willingness to sell and reduce the supply of residential properties in the secondary market, thus driving property prices up. Genuine home buyers were therefore also affected.</p> <p>The Administration reiterated that –</p> <p>(a) the SSD, being a demand-side management measure, aimed to provide a disincentive for speculators and short-term investors to purchase residential properties;</p> <p>(b) the SSD therefore should not have a significant effect on the supply of flats held by the end-users, who generally would not resell residential properties they acquired within a short period; and</p> <p>(c) the Administration saw no significant impact of the SSD on the overall supply of residential property for sale after the introduction of the SSD.</p>	
011315 – 012201	Chairman Mr James TO Administration	<p>Discussion on the calculation of the "Proportion of resale cases" set out in Table 1(a) of Annex A to the Administration's response to the issues raised at the meeting of the Bills Committee held on 4 February 2013 (LC Paper CB(1)598/12-13(02))</p> <p>Mr James TO was concerned about whether the proportion of short-term trading of residential property had been exceptionally high in the past two years (as compared with the long-term</p>	

Time marker	Speaker	Subject(s)	Action required
		average) that warranted the implementation of the extraordinary demand-side measure of the SSD.	
012202 – 013046	Chairman Mr WU Chi-wai Administration	<p>Mr WU Chi-wai repeated his views and concerns –</p> <p>(a) whether the supply of residential properties in the secondary market would gradually increase in 2013 when properties bought in the early months after the introduction of the SSD reached the end of the two-year SSD coverage period, thus leading to a drop in property prices; and</p> <p>(b) was concerned that extending the coverage period of the SSD would further reduce the supply of residential properties in the secondary market.</p> <p>The Administration reiterated that the SSD, being a demand-side management measure, aimed to provide a disincentive for speculators and short-term investors to purchase residential properties. With most speculators driven out of the residential property market, the end result would be a more healthy market of end-users. The Administration saw no significant impact of the SSD on the overall supply of residential property for sale.</p>	
013047 – 014457	Chairman Mr Abraham SHEK Administration	<p>Mr Abraham SHEK's views –</p> <p>(a) the SSD had been very effective in curbing short-term resale cases, as only 1 836 SSD had been recorded as at end 2012, therefore there was no need to increase the SSD rates and lengthen the coverage period of SSD to 36 months;</p> <p>(b) the SSD would affect vendors' willingness to sell and reduce the supply of residential properties in the secondary market, as it was noted that there had been substantial decrease in the total number of agreements for sale in the secondary market in 2011 and 2012; and</p> <p>(c) subsequently property prices were driven up, and genuine home buyers were therefore affected.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration reiterated that –</p> <p>(a) the Administration saw no significant impact of the SSD on the overall supply of residential property for sale or the number of transactions of residential property; and</p> <p>(b) the current exuberant state of the residential property market was due to a combination of various factors, including the influx of capital, the ultra-low interest rate environment, the decrease in supply of property in the primary market in recent years, etc.</p>	
014458 – 014627	Chairman Mr Tony TSE Administration	<p>Mr Tony TSE supported the extraordinary demand-side management measures of the SSD and BSD under the current exceptional circumstances of continued exuberant state of the property market. He reminded that the Administration should closely monitor the property market and the change in the external economic environment, so as to ensure that appropriate measures were introduced as necessary.</p> <p>In respect of the number of resale cases within 24 months after assignment set out in Table 1(a) of Annex A to the Administration's response to the issues raised at the meeting of the Bills Committee held on 4 February 2013 (LC Paper CB(1)598/12-13(02)), Mr Tony TSE requested the Administration to provide the number of cases which were subject to SSD.</p>	The Administration to follow up as stated in paragraph 5(b) of the minutes.
014628 – 014827	Chairman Mr Abraham SHEK	Mr Abraham SHEK reiterated his views that the SSD would affect vendors' willingness to sell and reduce the supply of residential properties in the secondary market, thus driving property prices up and affecting genuine home buyers. The rise in flat prices would only benefit the property developers in the primary market.	
014828 – 015000	Chairman	Concluding remarks	