

**The Administration's response to the submission from
the Hong Kong Institute of Estate Agents of 29 May 2013
(LC Paper No. CB(1)1165/12-13(02))**

This paper serves to respond to the submission dated 29 May 2013 from the Hong Kong Institute of Estate Agents (HKIEA) and referred to us by the LegCo Secretariat on the same date.

2. As the Administration has repeatedly stated during the deliberations of the Bills Committee on the Stamp Duty (Amendment) Bill 2012 (the Bill) that, in the midst of a continuously exuberant state in the residential property market, and arising from a tight supply of flats, extremely low interest rates and the influx of capital from overseas, it is apparent that the residential property market is out of step with the real economy. Property prices are rising beyond the affordability of the general public and the risk of a property bubble has increased substantially. In order to address the home ownership needs of Hong Kong permanent residents (HKPRs) who demonstrate a close connection with Hong Kong, we propose in the Bill the introduction of the Buyer's Stamp Duty (BSD) to accord priority to the home ownership needs of the HKPRs by increasing the cost for non-HKPRs to acquire residential properties.

3. The Administration would like to reiterate that the BSD is constitutional and is a legitimate taxation under Article 108 of the Basic Law. We note that HKIEA agrees that the BSD pursues a legitimate aim. As explained in detail in paragraphs 5 and 6 of LC Paper No. CB(1)973/12-13(02), we have demonstrated that the BSD is rationally connected to its legitimate aim and is no more than necessary to achieve such an aim. As a matter of fact, stamp duty statistics from the Inland Revenue Department (IRD) have shown that since the announcement of the BSD, there has been a significant drop in demand from non-local buyers, further demonstrating that the BSD is rationally connected to its legitimate aim. We also consider that the BSD is no more than necessary to accomplish its legitimate aim in light of the increasing share of residential flat supply taken up by non-local buyers, the persistent low interest rate, the abundant liquidity environment, and that the demand-supply balance in the property market would remain tight in near future.

4. We would like to clarify that, as explained in LC Paper CB(1)598/12-13(02), under the present stamp duty collection

arrangement, we can only distinguish property transactions involving buyers who provided information on their Hong Kong identity (HKID) cards, but do not have information on the HKPR status of buyers. Therefore, the term “non-local buyers” as referred to in paragraph 3 above and in paragraph 5 of the LC Paper No. CB(1)973/12-13(02) represents individual buyers who do not possess HKID cards as well as company (local and non-local) buyers. As far as individual non-local buyers are concerned, they may include buyers from any jurisdiction, including but not limited to Mainland buyers, who do not possess a HKID card. As seen from the above, non-HKPRs with a HKID card have not been covered by “non-local buyers”. Therefore, the actual proportion of non-HKPR buyers will be even higher than the share of non-local buyers as provided by IRD and mentioned in our papers, demonstrating an even more pressing need for introduction of the BSD to address the home ownership needs of HKPRs.

5. While the Administration is mindful of the implications for the effectiveness of the BSD if too many exemptions are to be granted, we are aware of the needs to grant exemption in certain cases such as acquisition of a residential property by a HKPR jointly with a non-HKPR close relative, in order to strike a balance between safeguarding the effectiveness of the BSD and addressing the genuine needs of the public. The Administration has listened to the views received and made reference to the existing stamp duty regime in drawing up the list of exemptions to ensure that appropriate exemptions are provided for under the Bill.

Transport and Housing Bureau
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