

立法會
Legislative Council

LC Paper No. CB(1)326/13-14
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by the Administration)

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Bills Committee on Stamp Duty (Amendment) Bill 2013

**Minutes of third meeting on
Thursday, 13 June 2013, at 9:00 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon Starry LEE Wai-king, JP (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon Abraham SHEK Lai-him, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon James TIEN Pei-chun, GBS, JP
Hon Charles Peter MOK
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Hon Dennis KWOK
Hon SIN Chung-kai, SBS, JP
Hon Tony TSE Wai-chuen

Members attending : Hon Ronny TONG Ka-wah, SC
Hon YIU Si-wing
Hon CHAN Yuen-han, SBS, JP
Dr Hon CHIANG Lai-wan, JP

**Public officers
attending**

: Agenda item I

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)

Transport and Housing Bureau

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

Inland Revenue Department

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

Ms TSE Yuk-yip, JP
Assistant Commissioner 3

Mr HONG Wai-kuen
Senior Superintendent of Stamp Office

Department of Justice

Miss Shandy LIU Wing-man
Acting Senior Assistant Law Draftsman

**Attendance by
invitation**

: Agenda item I

Hong Kong Economic Development Strategy
Studies Centre

Dr Stephen HUI
Chief Research Officer

The British Chamber of Commerce in Hong Kong

Mr Tim PEIRSON-SMITH
Chairman of the Business Policy Unit

The Australian Chamber of Commerce in Hong Kong and Macau

Mr Darren BOWDERN
Austcham Financial, Legal and Tax Committee
Chair

Hong Kong Chamber of Professional Property Consultants Ltd

Mr Lawrance WONG Dun-king
Past President & Honorary Secretary

The Real Estate Developers Association of Hong Kong

Mr Augustine WONG
Convenor of Legal Subcommittee

Cordells

Mrs Helen WORTH
Consultant

The Lion Rock Institute

Mr Peter WONG
Executive Director

Momentum 107

Mr NG Kin-wah
Member

Hong Kong Real Estate Agencies General Association

Mr WONG Kin-kei
Chief Secretary

Property Agencies Association

Mr Tony KWOK Tak-leung
Chairman

KPMG Tax Limited

Mr Garry J LAIRD
Senior Tax Advisor

Labour Party

Mr KEUNG Kwok-wai
Representative

The Hong Kong Institute of Surveyors

Sr Lawrence POON
Chairman of Housing Policy Panel

The Canadian Chamber of Commerce in Hong Kong

Mr David M NESBITT
Executive Director

Colliers International Agency Limited

Mr Michael NARDELLA
Manager of Office Services

Hong Kong Professionals and Senior Executives Association

Professor CHAU Kwong-wing
Co-convenor of the Task Force on Housing,
Planning and Lands

Individual

Mr Louie HUI Chi-ling

Individual

Mr Andy YEUNG

Individual

Mr Simon LEE Chao-fu

Webb-site.com

Mr David M WEBB
Editor of Webb-site.com

Royal Institution of Chartered Surveyors

Mr Jeremy SHELDON
Vice Chairman of Hong Kong Commercial
Property Professional Group Committee

Individual

Mr Raymond HO Man-kit
Sai Kung District Councillor

Civic Party

Mr Leo IP
District Developer

Individual

Mr LEE Yuk-cheung

Hong Kong Christian Council

Dr WONG Fook-yee
Representative

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

Staff in attendance: Miss Kitty CHENG
Assistant Legal Adviser 5

Mr Ken WOO
Council Secretary (1)5

Ms May LEUNG
Legislative Assistant (1)3

Action

I. Meeting with the Administration

Submissions from deputations/individual not attending the meeting

1. The Law Society of Hong Kong
(LC Paper No. CB(1)960/12-13(01) – Submission)
2. The American Chamber of Commerce in Hong Kong
(LC Paper No. CB(1)1237/12-13(14) – Submission)
3. Hong Kong Bar Association
(LC Paper No. CB(1)1237/12-13(16) – Submission)
4. Hong Kong Institute of Estate Agents
(LC Paper No. CB(1)1237/12-13(17) – Submission)
5. Consumer Council
(LC Paper No. CB(1)1237/12-13(18) – Submission)
6. The Taxation Institute of Hong Kong
(LC Paper No. CB(1)1237/12-13(19) – Submission)
7. The Hong Kong Association of Banks
(LC Paper No. CB(1)1237/12-13(20) – Submission)
8. The Hong Kong Conveyancing and Property Law Association Ltd
(LC Paper No. CB(1)1237/12-13(21) – Submission)
9. Professor Stephen WONG Yuen-shan
Adjunct Associate Professor at the Hong Kong University SPACE

for the Institute for China Business and Adjunct Lecturer at the Chinese University of Hong Kong for the Master of Social Science in Global Political Economy
(LC Paper No. CB(1)1237/12-13(22) – Submission)

10. Joint Council of Estate Agents Associations
(LC Paper No. CB(1)1237/12-13(23) – Submission)
11. Federation of Hong Kong Industries
(LC Paper No. CB(1)1262/12-13(04) – Submission)

At the invitation of the Chairman, 25 deputations/individuals as listed in the **Appendix** presented their views.

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).
3. The Chairman, Mr Andrew LEUNG, Mr Tony TSE, Mr YIU Si-wing, Dr LAM Tai-fai, Mr Abraham SHEK, Mr WONG Ting-kwong and Mr James TIEN made declaration of interests respectively.

Follow-up actions required of the Administration

4. The Administration was requested to:
 - (a) provide a written response to major concerns on the Stamp Duty (Amendment) Bill 2013 ("the Bill") expressed by deputations at the meeting and in the submissions received;
 - (b) provide evidence with supporting figures to show the effectiveness of the demand-side management measures proposed under the Bill on assisting Hong Kong Permanent Residents in acquiring residential property;
 - (c) provide an assessment on the impact of the proposed measures on the business turnover and employment rate of the relevant sectors, including property agencies, renovation/fitting-out contractors, furniture companies and cleaning contractors etc.; and
 - (d) in relation to the Administration's indication about the renewed signs of overheating in both the residential and non-residential property markets on entering 2013, provide information on the transaction figures and transacted prices of

residential and non-residential properties (including a breakdown for retail, office and flatted factory space).

(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)1503/12-13(02) on 12 July 2013.)

Date of next meeting

5. The Chairman reminded members that the next meeting would be held on Tuesday, 2 July 2013 at 4:30 pm to meet with the Administration.

(Post-meeting note: With the concurrence of the Chairman, the next meeting of the Bills Committee originally scheduled for 2 July 2013 had been rescheduled for Monday, 15 July 2013, at 10:45 am. Members were informed of the meeting arrangements vide LC Paper No. CB(1)1503/12-13 on 11 July 2013.)

II. Any other business

6. There being no other business, the meeting ended at 11:35 am.

Council Business Division 1
Legislative Council Secretariat
15 November 2013

**Proceedings of the third meeting of
the Bills Committee on Stamp Duty (Amendment) Bill 2013
on Thursday, 13 June 2013, at 9:00 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Meeting with deputations and the Administration			
000252 – 000507	Chairman Mr Andrew LEUNG Mr Tony TSE Mr SIN Chung-kai Mr YIU Si-wing	Disclosure of direct or indirect pecuniary interest by members Mr SIN Chung-kai enquired about the arrangement for the disclosure of pecuniary interest.	
000508 – 000729	Chairman	Introductory remarks	
000730 – 001117	Hong Kong Economic Development Strategy Studies Centre ("EDSCHK")	Presentation of views (LC Paper No. CB(1)1237/12-13(01)). Emphasizing that the basic rate of stamp duty should not be amended, EDSCHK urged the Administration to resolve the overheated property market by increasing housing supply through developing satellite cities in Lantau Island and northern New Territories.	
001118 – 001422	The British Chamber of Commerce in Hong Kong	Presentation of views (LC Paper No. CB(1)1237/12-13(02)). The British Chamber of Commerce in Hong Kong was of the view that genuine investors acquiring non-residential properties for long-term investment should be exempted from the enhanced ad valorem stamp duty ("AVD") rates.	
001423 – 001609	The Australian Chamber of Commerce in Hong Kong and Macau	Presentation of views (LC Paper No. CB(1)1237/12-13(03)). The Australian Chamber of Commerce in Hong Kong and Macau urged the Administration to exempt non-speculative acquisitions of non-residential properties from the enhanced AVD rates.	
001610 – 001921	Hong Kong Chamber of Professional Property Consultants Ltd ("CPPCL")	Presentation of views (LC Paper No. CB(1)1237/12-13(04)). CPPCL pointed out that the series of demand-side management measures introduced by the Government would undoubtedly add to the risks and costs for residential property owners on replacing an old property by a new one, thus suppressing not only the demand, but also the supply in the residential property market which in turn would make it difficult to bring property prices down.	

Time marker	Speaker	Subject(s)	Action required
001922 – 002240	The Real Estate Developers Association of Hong Kong ("REDA")	Presentation of views (LC Paper No. CB(1)1237/12-13(05)). REDA called for a periodic review of the doubled AVD every six months and making available clear criteria for its ultimate removal.	
002241 – 002524	Cordells	Presentation of views (LC Paper No. CB(1)971/12-13(01)). Cordells held the view that non-residential properties acquired for long-term investment and self-occupation should not be penalized by the doubled AVD.	
002525 – 002840	The Lion Rock Institute ("LRI")	<p>Presentation of views (LC Paper No. CB(1)1262/12-13(01)). LRI also expressed the following views:</p> <p>(a) the Administration should consider compensating estate agents as their livelihood had been seriously affected by the loss of business arising from the measures; and</p> <p>(b) as about half of Hong Kong families owned properties, the Government should compensate these families for the loss in market value of the residential properties held if, according to the views expressed recently by Mr Stanley WONG Yuen-fai, further measures would be introduced as and when necessary to lower property prices by 20%.</p>	
002841 – 003157	Momentum 107	<p>Presentation of views (LC Paper No. CB(1)1237/12-13(06)). Momentum 107 also expressed the following:</p> <p>(a) extending the regulation to cover non-residential properties under the Stamp Duty (Amendment) Bill 2013 ("the Bill") would strongly discourage multi-national companies ("MNCs") from setting up offices or regional headquarters in Hong Kong, the economic losses to be incurred would be substantial; and</p> <p>(b) the proposed measures had posed serious impact to the livelihood of estate agents. Thousands of them had taken part in various activities to express objection to the Bill.</p>	

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003158 – 003507	Hong Kong Real Estate Agencies General Association ("HKREAGA")	<p>HKREAGA's views and concerns:</p> <ul style="list-style-type: none"> (a) the supply-demand gap in respect of residential properties was self-evident. The measures proposed under the Stamp Duty (Amendment) Bill 2012 had only led to a sharp reduction in transaction volume but not curbing the increase in property prices (except luxury flats); (b) the Administration should seek to stabilize instead of reducing property prices substantially, otherwise it risked turning properties into negative equity; and (c) to address the issue of soaring property prices, the Administration could increase land supply on the one hand, and to stimulate demand by introducing concessionary taxation measures to facilitate owners of old buildings to replace their old properties with a new one. 	
003508 – 003852	Property Agencies Association ("PAA")	<p>Presentation of views of PAA (LC Paper No. CB(1)1237/12-13(07)) and the Joint Council of Estate Agents Associations (LC Paper No. CB(1)1237/12-13(23)). PAA advised that the Joint Council of Estate Agents Associations proposed that the Administration should:</p> <ul style="list-style-type: none"> (a) immediately withdraw the proposed doubling of AVD; (b) exempt companies whose shareholders were all Hong Kong permanent residents ("HKPRs") from the proposed Buyer's Stamp Duty ("BSD"); and (c) extend the proposed six-month period for buyers of a new residential property to dispose of their only other residential property in Hong Kong from six months to one year. <p>PAA further said that the Joint Council of Estate Agents Associations might invite all estate agency practitioners to join a rally if the Administration failed to properly address their concerns.</p>	

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003853 – 003948	KPMG Tax Limited ("KPMG")	Presentation of views (LC Paper No. CB(1)1237/12-13(08)). KPMG highlighted that genuine long-term investors in non-residential properties should not be subject to the doubled AVD.	
003949 – 004318	Labour Party	<p>Labour Party's views and concerns:</p> <ul style="list-style-type: none"> (a) the fundamental causes of the soaring property prices were the high land premium policy, coupled with the cessation in the provision of public rental housing ("PRH"); (b) a study commissioned by the Long Term Housing Strategy Steering Committee revealed that there were some 67 000 Subdivided Units in Hong Kong involving some 170 000 residents. The living condition of these residents was harsh. To help these residents as well as those ineligible for PRH and hence had to bear expensive rentals, the Government should impose rent control or provide rental subsidies to the needy; and (c) to cool down the property market, the Administration should speed up the provision of Home Ownership Scheme ("HOS") units and resume construction of PRH while increasing land supply. 	
004319 – 004646	The Hong Kong Institute of Surveyors ("HKIS")	<p>HKIS's views and concerns:</p> <ul style="list-style-type: none"> (a) the Government should make clear the legislative intent of the Bill. If it was to bring down property prices, it should be mindful that a drop in property prices by 20% would result in negative equity; (b) exemption from the proposed measures could be considered for cases where the purchase of a second property was simply a means for retirees to-be to safeguard their living after retirement; and (c) the six months period for HKPR buyers to replace their old property by a new one should be extended to 12 months. A longer period should be allowed for cases involving 	

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		the purchase of uncompleted flats.	
004647 – 005003	The Canadian Chamber of Commerce in Hong Kong	Presentation of views (LC Paper No. CB(1)1237/12-13(09)). The Canadian Chamber of Commerce in Hong Kong expressed that the enhanced AVD rates should not apply to non-speculative acquisitions of non-residential properties for owner-occupancy and long-term investments.	
005004 – 005335	Colliers International Agency Limited ("Colliers")	<p>Colliers's views and concerns:</p> <ul style="list-style-type: none"> (a) the measures as currently proposed might harm business prospects of MNCs and small and medium enterprises ("SMEs") owner occupiers as these measures would increase their operation costs and hence reduce their profits; (b) the amount of stamp duty payable should vary depending on the period for which the non-residential properties had been held, and that the enhanced AVD rates should not apply to non-speculative acquisitions of commercial properties for owner-occupancy and long-term investments ; and (c) the Administration should consider the adverse impact of the measures on Hong Kong's attractiveness as a preferred location for setting up regional business headquarters. The measures might give Singapore a further competitive edge in this respect. 	
005336 – 005700	Hong Kong Professionals and Senior Executives Association ("HKPASEA")	Presentation of views (LC Paper No. CB(1)1262/12-13(02)). As a long-term measure to address the issue of soaring property prices, HKPASEA urged the Administration to increase the supply of land for housing and commercial developments.	
005701 – 005952	Mr Louie HUI Chi-ling	<p>Presentation of views (LC Paper No. CB(1)1237/12-13(10)). Mr HUI also called for the Bills Committee to object to the Bill and expressed the following views:</p> <ul style="list-style-type: none"> (a) refuted the Administration's concern about the heightened risk of a property market 	

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		<p>bubble, as more than 60% of residential property owners had repaid all mortgages as revealed by the 2011 census, coupled with the fact that persons seeking to borrow mortgages from banks were required to undergo a stress test to assess their respective risks;</p> <p>(b) the proposed measures affected small property owners most by increasing their costs on acquiring a second property for long-term investment purpose or acquiring a new property with a view to disposing of the old one; and</p> <p>(c) as evident by the case of Manulife (International) Limited ("Manulife") who recently acquired a \$4.5 billion office building in Kwun Tong and incurred doubled AVD at some \$380 million, the proposed measures had substantially raised the costs of MNCs seeking to set up offices in Hong Kong and this would undoubtedly impact on Hong Kong's strategic position as a gateway to the Mainland.</p>	
005953 – 010141	Mr Andy YEUNG	<p>Mr YEUNG's call for the Bills Committee to object to the Bill and expression of views and concerns:</p> <p>(a) the various stamp duty measures introduced in recent years were ineffective in lowering the soaring property prices as it only added to the costs of acquisition and suppressed transaction volume; and</p> <p>(b) the various duties added to the risks of property acquisitions as it increased the costs of selling the properties in case of urgent cash flow need.</p>	
010142 – 010454	Mr Simon LEE Chao-fu	<p>Mr LEE's views and concerns:</p> <p>(a) the various stamp duties measures had proven to be ineffective in lowering property prices but only suppress transaction volume; and</p> <p>(b) the Government should not interfere with</p>	

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		<p>free market operations and it was neither practical nor appropriate to assume the motive of any transaction activities. It was also natural for people to secure their future living by making property investments and it was unfair to label a person who purchased more than one property as a speculator.</p>	
010455 – 010856	Webb-site.com	<p>Presentation of views (LC Paper No. CB(1)1237/12-13(11)). With the introduction of BSD and the enhanced AVD, the Government was interfering with people's rights for free choice protected under Article 105 of The Basic Law, which stipulated that people should have the right to acquire, dispose of and enjoy properties. Passage of the relevant bills would result in a gradual destruction of Hong Kong's free market economy and freedom of choice.</p>	
010857 – 011153	Royal Institution of Chartered Surveyors ("RICS")	<p>Presentation of views (LC Paper No. CB(1)1237/12-13(12)). RICS suggested that the Administration should consider amending the Bill such that the enhanced AVD rates did not apply to non-speculative acquisitions of non-residential properties. It should also set a timeframe to review the proposed measures, and to increase land supply in a steady and predictable way.</p>	
011154 – 011514	Mr Raymond HO Man-kit, Sai Kung District Councillor	<p>Presentation of views (LC Paper No. CB(1)1237/12-13(13)). Calling for the Administration to withdraw the Bill, the enhanced Special Stamp Duty ("SSD") as well as BSD, Mr HO also expressed the following:</p> <ul style="list-style-type: none"> (a) the enhanced AVD would effectively hinder retirees from securing their retirement living by purchasing a property for rental income, and would discourage families to acquire a bigger property to improve living condition; and (b) the Chief Executive and some bureau secretaries owned quite a number of properties. The enhanced AVD would create a state of unfairness by allowing top government officials to receive rental income, while creating obstacles for the public in acquiring residential properties. 	

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011515 – 011808	Civic Party ("CP")	<p>CP's views and concerns:</p> <ul style="list-style-type: none"> (a) supported the legislative intent of the bill, as soaring property prices would increase the public's burden on housing and operation costs of enterprises, especially SMEs, which would in turn affect the healthy development of the economy; (b) however, increasing the cost of acquisition generally by doubling across the board the rates of existing AVD without separating non-speculative from speculative acquisitions would, in the context of residential properties, severely impact on genuine home buyers and those making long-term investments in residential properties with a view to receiving reasonable asset return, and would affect business operations, especially SMEs who would mortgage their properties to finance their business operations; and (c) in setting the enhanced AVD rates, the Administration should make reference to the Seller's Stamp Duty in Singapore whereby the rates was lowered with an increase in holding period. 	
011809 – 012207	Mr LEE Yuk-cheung	<p>Presentation of views (LC Paper No. CB(1)1237/12-13(15)). Mr LEE also expressed the following views and concerns:</p> <ul style="list-style-type: none"> (a) while estate agents were supportive of the Government's policy to stabilize property prices to avoid bursting of property bubble, the stamp duty measures introduced in recent years had not been effective in cooling down the property market; (b) the overall monthly transaction volume had dropped from some 7 000 cases to some 3 000 cases since the introduction of the enhanced AVD, severely affecting the livelihood of some 40 000 licenced estate agents many of them had in fact earned no commission in recent months; (c) it was envisaged that many property-related 	

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		<p>businesses, such as real estate, banking, law, construction, decoration, transport and furniture would have to lay off staff, and SMEs might have to wind up their business because of the measures; and</p> <p>(d) urged the Administration to withdraw the Bill and consult the trade thoroughly for future measures targeting at the property market.</p>	
012208 – 012534	Hong Kong Christian Council ("HKCC")	Presentation of views (LC Paper No. CB(1)1262/12-13(03)). HKCC urged the Administration to exempt charitable organizations from BSD with a view to reducing their cost of operation and enabling them to spend the most out of their resources on the needy.	
012535 – 013755	Chairman Administration Mr Abraham SHEK Dr LAM Tai-fai	<p>The Administration's response to views and concerns expressed by deputations:</p> <p>(a) following the introduction of the enhanced SSD and BSD in October 2012, the upward momentum in property prices of residential property market had been temporarily arrested. However, on entering 2013, there were renewed signs of exuberance in the residential property market amidst the supply-demand imbalance, exceptionally low interest rate and abundant liquidity environment. There were also signs of overheating in the non-residential property market in 2012, as evident by the rise in trading volumes for retail, office and flatted factory space by 23%, 9% and 30% respectively over 2011. Prices of retail, office and flatted factory space surged by a cumulative 40%, 23% and 44% respectively in 2012;</p> <p>(b) to accord priority to the housing needs of HKPRs amidst the tight supply situation and to forestall the shifting of the exuberance condition in the residential property market to the already overheated non-residential property market, the Government's policy objective was to cool down the residential and non-residential property market immediately by way of demand-side</p>	

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		<p>management;</p> <p>(c) the AVD chargeable on property transactions had all along been applicable to all types of properties, irrespective of whether residential or non-residential properties were involved. This approach had been consistently adopted;</p> <p>(d) as regards some deputations' view that the enhanced AVD should not apply to non-speculative acquisitions of non-residential properties, the matter would require very careful considerations as definition of "speculative activities" and "short-term resale" could be subject to different interpretations;</p> <p>(e) the Government understood that the proposed measures would cause inconvenience to the business and industrial enterprises. The measures were extraordinary ones introduced under exceptional circumstances with an aim to prevent the macroeconomic and financial stability from being affected by wide fluctuations in the property market. Failure to take actions in a timely manner will carry with it a high risk of the upward spiral in property prices continuing unabated, eventually precipitating a very costly adjustment and endangering the overall macroeconomic and financial stability of Hong Kong;</p> <p>(f) in order that adjustments to the measures could be made in a timely manner in response to the development in the property market, the Administration had proposed in the Bill a provision empowering the Financial Secretary to amend the value bands and rates of the AVD by way of subsidiary legislation subject to negative vetting by the Legislative Council ("LegCo"); and</p> <p>(g) the Government reckoned that a fundamental solution to the tight supply in the residential property market was to increase the housing and land supply in the</p>	

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		<p>long term. The Government was determined to adopt the supply-led strategy as the basis for addressing the housing and other development needs.</p> <p>The Administration undertook to provide a detailed response to deputations' views.</p>	<p>The Administration to follow up as stated in paragraph 4(a) of the minutes.</p>
<p>013756 – 014237</p>	<p>Chairman Dr LAM Tai-fai Administration</p>	<p>Dr LAM Tai-fai's disclosure of direct or indirect pecuniary interest and expression of views and concerns:</p> <p>(a) the Administration should take on board the views expressed by deputations to withdraw the Bill as many of them were estate agency practitioners who felt the pulse of the property market; and</p> <p>(b) the Bill did not tackle the problem at source. It had proven to only dampen property transactions, but not moderating the increase in property prices. Not only did the outcomes ran against the Government's policy, which was to accord priority to the housing needs of HKPRs, but also damaged Hong Kong's established reputation as a free market economy.</p> <p>The Administration explained that it was the Government's prevailing policy to accord priority to the housing needs of HKPRs. Therefore, HKPRs who sought to acquire a residential property for the very first time and those HKPRs who were not beneficial owners of any other residential properties in Hong Kong on the date of acquisition would be charged at the old AVD rates.</p>	
<p>014238 – 014745</p>	<p>Chairman Mr Andrew LEUNG Administration Webb-site.com HKPASEA HKIS Mr Simon LEE Chao-fu</p>	<p>Mr Andrew LEUNG's views and concerns:</p> <p>(a) the vast majority of deputations attending the meeting were opposed to the Bill, and it was in line with his motion moved at the last Bills Committing meeting which urged the Government to withdraw the Bill;</p>	

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		<p>(b) subjecting non-residential properties to the enhanced AVD was unfavourable to the local business environment. As any Hong Kong company owned by an offshore company would in effect be exempted from the stamp duty, the biggest impact of the new measures would be on SMEs seeking to acquire properties for self-use; and</p> <p>(c) in response to Mr LEUNG's question on the ways to ensure the use of a non-residential property for self-occupancy:</p> <p>(i) Mr David WEBB of Webb-site.com opined that if a company bought an office and moved in to it with a business registration, it should be regarded as genuine self-use. It was unlikely that the company would move out shortly due to the high moving in and fitting costs incurred;</p> <p>(ii) HKPASEA commented that there was no need to differentiate between non-residential properties acquired for self-occupation and those for speculation, as this would have little impact on the livelihood of the general public;</p> <p>(iii) HKIS held the view that the Bill could penalize people who made false declarations on the use of a non-residential property; and</p> <p>(iv) Mr Simon LEE Chao-fu remarked that the acquisition of non-residential properties was in itself a commercial act, and so it might not be meaningful to differentiate between non-residential properties acquired for self-use and those for speculation.</p>	
014746 – 015223	Chairman Mr Abraham SHEK Administration	<p>Mr Abraham SHEK's disclosure of direct or indirect pecuniary interest and expression of views and concerns:</p> <p>(a) the Administration had all along neglected the views of LegCo members since SSD was</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>introduced in December 2010. The stamp duty measures introduced in recent years were futile in stabilizing property prices as evident by a rise in property prices by 35% from 2010 to 2012 even though the number of property transactions had dropped drastically from around 156 000 to around 91 000 during the same period;</p> <p>(b) in addition to BSD to be charged at a flat rate of 15%, the enhanced AVD rate to be charged at a maximum of 8.5% would make the total stamp duty as high as 23.5%, let alone SSD if applicable. Enterprises would find it very difficult to sustain their operations in Hong Kong given the high duty rate, and many enterprises in the property-related sectors would have no way of continuing their businesses under such a harsh business environment. With the introduction of the stamp duty measures, the Government was also interfering with people's rights for free choice in relation to properties protected under Article 105 of The Basic Law; and</p> <p>(c) the Government should withdraw the proposed stamp duty measures, and seek to increase land supply to provide more PRH as well as HOS flats to tackle the problem of overheating at source.</p>	
015224 – 015733	Chairman Mr WONG Ting-kwong Administration	<p>Mr WONG Ting-kwong's disclosure of direct or indirect pecuniary interest and expression of the view that under the "Hong Kong Property for Hong Kong People" policy, it was inappropriate for the Administration to not consider exempting companies whose shareholders were all HKPRs from the BSD aided with a declaration mechanism while accepting declarations made by HKPR buyers for the purpose of exempting the doubled AVD.</p> <p>The Administration responded that a company was an entity independent of its shareholders in law. Based on the same legal principle, the Government would not take into account the residential properties held by HKPRs through a company in determining whether the relevant</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>persons could be exempted from the proposed doubled AVD.</p> <p>Mr WONG opined that it would discourage HKPRs from setting up businesses in Hong Kong if companies whose shareholders were all HKPRs were not exempted from BSD. He asked whether consideration could be given to exempting companies whose shareholders were all HKPRs and at the same time were first-time buyers of a non-residential property from BSD.</p> <p>The Administration explained that the legislative intent of the Stamp Duty (Amendment) Bill 2012 was to accord priority to the housing needs of HKPRs and the acquisition of residential properties by a company as an entity would not be given exemption under the relevant Bill.</p>	
015734 – 020150	Chairman Dr CHIANG Lai-wan	<p>Dr CHIANG Lai-wan's views and concerns:</p> <p>(a) the measures to increase the cost of acquisition generally by doubling across the board the rates of the existing AVD applicable to both residential and non-residential properties came too hastily and would pose a severe impact on economic activities as well as the livelihood of people engaged in property-related trades and their families; and</p> <p>(b) the Administration should withdraw the Bill and consult the trade thoroughly on the most appropriate actions to tackle the overheated property market. Consideration should be given to protecting the public's right and need for making reasonable returns from their property investments.</p>	
020151 – 020900	Chairman Mr Tony TSE Administration Mr Abraham SHEK	<p>Mr Tony TSE's views and concerns:</p> <p>(a) the provision of a six-month period for buyers of a new residential property to dispose of their only other residential property was too short, and they might be forced to dispose of their property at a lower price due to the limited timeframe; and</p> <p>(b) increasing the cost of acquisitions was unfair</p>	

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		<p>to genuine and long-term property investors. The measures would also create unfairness between the rich and the general public, as the latter in general lacked the knowledge to circumvent stamp duty by way of setting up an offshore company to hold local company shares. The Administration should consider deputations' request for exempting activities that were clearly non-speculative in nature.</p> <p>The Administration's response:</p> <p>(a) the purposes of the demand-side management measures were crystal clear, the objective of SSD was to tackle speculative activities relating to residential properties while BSD aimed to manage non-HKPRs' demand for residential properties by raising their acquisition costs, thereby according priority to the housing needs of HKPRs. In the residential property market, the upward momentum in property prices was temporarily arrested upon the introduction of the enhanced SSD and BSD. The doubled AVD was introduced to forestall the shifting of overheating in the residential property market to non-residential one in light of the renewed signs of exuberance; and</p> <p>(b) the Administration would continue to gauge the views of public, related organizations and the Bills Committee. It should be noted that to expand the exemption coverage would weaken the effectiveness of the measures and send a wrong message about the Government's determination to tackle the overheated property market.</p>	
020901 – 021345	Chairman Mr SIN Chung-kai Administration	<p>Mr SIN Chung-kai's views and concerns:</p> <p>(a) the six-month period for buyers of a new residential property to dispose of their only other residential property should be extended to, say 18 months; and</p> <p>(b) queried if there was concrete evidence for overheating in the non-residential property</p>	

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		<p>market that warranted the doubling of AVD on the acquisitions of non-residential properties, which would weaken Hong Kong's competitiveness and have an adverse impact on the business environment.</p> <p>The Administration's response that the six-month period was considered appropriate having balanced the various factors under the Bill. If the period was to be extended, buyers would be allowed to own more than one residential property for a long period of time, and this would undermine the effectiveness of the demand-side management measures.</p>	
021346 – 021811	Chairman Mr James TIEN Administration	<p>Mr James TIEN's disclosure of direct or indirect pecuniary interest and expression of views and concerns:</p> <ul style="list-style-type: none"> (a) expressed dissatisfaction about the Administration's failure to pay heed to the views of the public and LegCo members on the Bill; (b) the proposed measures had failed to achieve the Government's objective to stabilize property prices. For instance, under the proposed measures, AVD payable for a property at a market value of \$10 million would be increased from \$0.375 million (3.75%) to \$0.75 million (7.5%), meaning that the purchaser would have to pay \$10.375 million and the seller would receive \$9.625 million. While the price of the property was said to have been lowered from 10 million to \$9.625 million, the price did not actually go down and the purchaser did not save anything at all from the transaction. The reduction in the price of the property upon the announcement of the proposed measures was only illusory; (c) the case of Manulife, who recently acquired a \$4.5 billion office building in Kwun Tong and incurred doubled AVD at some \$400 million, had attracted the widespread concerns of various chambers of commerce; (d) the Administration should consider 	

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		<p>modeling on the practice of the Singapore Government on providing exemption for non-residential properties that were held for more than three years. While there were concerns that the three-year period was far too long in the context of Hong Kong, the Liberal Party ("LP") would support a shorter period where appropriate; and</p> <p>(e) LP would propose Committee Stage amendments in respect of a sunset clause for the demand-side management measures and exemptions for transactions of both residential and non-residential properties effected by company buyers, and would oppose to the Bill if the amendments were negatived.</p> <p>The Administration responded that the Government did not agree that a sunset clause should be introduced for the demand-side management measures since it was impossible for the Government to make speculation on the future changes of the market conditions and the external factors and pre-determine a date on which these measures would be deemed no longer necessary. The Government had undertaken to conduct a review and report to LegCo one year after the enactment of the legislation concerning the extraordinary measures in respect of the enhanced SSD and BSD.</p>	
021812 – 022327	Chairman	<p>The Chairman's views and concerns:</p> <p>(a) the public in general accepted the enhanced SSD which tackled speculative activities relating to residential properties, and the BSD which managed non-HKPRs' demand for residential properties. There were however concerns on not granting exemptions to companies whose shareholders were all HKPRs from the BSD. The proposed doubling of the AVD rate had aroused much contention as it only dampen property transactions but not moderating the increase in property prices. What was more damaging was the adverse effect it posed to the business community by raising substantially their acquisition costs on</p>	

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		<p>non-residential properties for self-use or long-term investments. The provision of a six-month period for buyers of a new residential property to dispose of their only other residential property was also way too short; and</p> <p>(b) while she would reflect the views and concerns expressed by deputations as well as those of members to the relevant bureau secretaries, she requested the attending officials to do the same with a view to addressing the public's concerns. She was not optimistic that the Bill would win the support of LegCo if no amendments were made to address the various concerns raised by the public and the business community.</p>	
022328 – 022419	Chairman Dr LAM Tai-fai	<p>Dr LAM Tai-fai's request for the following information:</p> <p>(a) provide evidence with supporting figures to show the effectiveness of the demand-side management measures proposed under the Bill on assisting HKPRs in acquiring residential property;</p> <p>(b) provide an assessment on the impact of the proposed measures on the business turnover and employment rate of the relevant sectors, including property agencies, renovation/fitting-out contractors, furniture companies and cleaning contractors etc.; and</p> <p>(c) respond to the views expressed recently by Mr Stanley WONG Yuen-fai about the need for further measures, if considered necessary by the Government, to lower property prices by 20%.</p>	<p>The Administration to follow up as stated in paragraph 4(b) of the minutes.</p> <p>The Administration to follow up as stated in paragraph 4(c) of the minutes.</p>
022420 – 022531	Chairman Mr Abraham SHEK	<p>Mr Abraham SHEK's comment that the SSD first introduced in 2010 was of little use although the transaction volume between 2010 and 2012 had dropped by 40%, the transacted prices rose by 35%. Only 1 800 transactions out of the 180 000 transactions made during the above period were subject to SSD. The enhanced SSD and BSD introduced in 2012 together with the</p>	

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		doubled AVD measure in 2013 had all been proven to be ineffective in addressing market exuberance.	
022532 – 022736	Chairman Mr SIN Chung-kai	<p>Mr SIN Chung-kai's views and concerns:</p> <p>(a) the Administration should provide information on the transaction figures and transacted prices of residential and non-residential properties (including a breakdown for retail, office and flatted factory space) which showed the renewed signs of overheating in both the residential and non-residential property markets since the beginning of 2013; and</p> <p>(b) the Administration should consider members' suggestion to extend the six-month period for buyers of a new residential property to dispose of their only other residential property, and the request for a sunset clause having regard to the recent financial policies of the United States and the China government which might alter the low interest rate environment.</p>	The Administration to follow up as stated in paragraph 4(d) of the minutes.
022737 – 022852	Chairman Mr Andrew LEUNG	Mr Andrew LEUNG referred to the motion moved by himself as a member of the Business and Professionals Alliance for Hong Kong urging the Government to withdraw the Bill which was passed at the last Bills Committee meeting. He urged the Administration to seriously consider the views and grave concerns expressed by members and the deputations attending the meeting.	
022853 – 022929	Chairman Mr WONG Ting-kwong	Mr WONG Ting-kwong's expression of concurrence with the Chairman's view that the Bill would not gain the support of LegCo members if the Administration failed to effectively address the concerns on the Bill expressed by the trade and general public.	
022930 – 023448	Chairman Administration Dr LAM Tai-fai Mr Abraham SHEK	<p>The Chairman extended the meeting by 15 minutes.</p> <p>The Administration's response to members' views above:</p> <p>(a) in respect of residential properties, HKPRs</p>	

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		<p>who were not the beneficial owners of any other residential property in Hong Kong on the date of acquisition would be exempted from the enhanced AVD rates;</p> <p>(b) on non-residential properties, the Bill proposed to advance the charging of AVD on non-residential property transactions from the conveyance on sale to the agreement for sale. This was to tally with the existing arrangement for residential properties;</p> <p>(c) the Administration would continue to gauge the views of the Bills Committee and the public, in particular the trade and related organizations; and</p> <p>(d) as regards the views expressed recently by Mr Stanley WONG Yuen-fai, the Administration had made it clear in the relevant LegCo Brief and on a number of occasions that property prices were affected by many internal and external factors, and it was never the Government's intention to affect the property prices by any single measure.</p>	
023449 – 023602	Chairman Mr LEE Yuk-cheung	Mr LEE Yuk-cheung's remark that estate agency practitioners had not protested even at times of financial tsunami from 1998 to 2003 and 2008. However, they were now forced to voice out their concerns because the recent stamp duty measures had proven to be ineffective and had severely affected the livelihood of thousands of estate agency practitioners.	
023603 – 023625	Chairman	Meeting arrangements	