

立法會
Legislative Council

LC Paper No. CB(1)1157/13-14
(These minutes have been seen
by the Administration)

Ref : CB1/BC/5/12

Bills Committee on Stamp Duty (Amendment) Bill 2013

**Minutes of sixth meeting on
Friday, 22 November 2013, at 10:45 am
in Conference Room 2A 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
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

Member absent : Dr Hon LAM Tai-fai, SBS, 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

Mr LAU Wai-ming
Assistant Secretary for Financial Services and the
Treasury (Treasury) (R) 2

Transport and Housing Bureau

Mr Kasper NG
Acting Principal Assistant Secretary for Transport
and Housing (Housing) (Private Housing)

Inland Revenue Department

Mr TAM Tai-pang, 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
Senior Assistant Law Draftsman

Mr Manuel NG Man-chun
Acting Senior Government Counsel

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

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Mr Ken WOO
Senior Council Secretary (1)5

Action

I. Meeting with the Administration

- (LC Paper No. CB(1)349/13-14(01) -- List of follow-up actions arising from the discussion at the meeting on 21 October 2013
- LC Paper No. CB(1)369/13-14(01) -- Administration's response to issues raised at the meeting on 21 October 2013
- LC Paper No. CB(1)349/13-14(02) -- Hon Tony TSE Wai-chuen's letter dated 29 October 2013
(Chinese version only)
- LC Paper No. CB(1)369/13-14(02) -- Administration's response to Hon Tony TSE Wai-chuen's letter dated 29 October 2013
- Annex C to LC Paper No. CB(1)1503/12-13(02) -- Administration's response to views expressed by deputations on the Bill
- LC Paper No. CB(1)1847/12-13(01) -- Draft Committee Stage amendments proposed by Hon Abraham SHEK Lai-him
- LC Paper No. CB(1)1847/12-13(02) -- Draft Committee Stage amendment proposed by Hon Andrew LEUNG Kwan-yuen
- LC Paper No. CB(1)88/13-14(01) -- Administration's responses to draft Committee Stage amendments proposed by Hon Abraham SHEK Lai-him and Hon Andrew LEUNG Kwan-yuen as set out in LC Paper Nos. CB(1)1847/12-13(01) and (02)
- LC Paper No. CB(1)105/13-14(01) -- Mark-up copy of Hon Abraham SHEK Lai-him's

proposed Committee Stage amendments to the Bill prepared by the Legal Service Division

LC Paper No. CB(1)105/13-14(02) -- Mark-up copy of Hon Andrew LEUNG Kwan-yuen's proposed Committee Stage amendment to the Bill prepared by the Legal Service Division

Relevant papers issued previously

LC Paper No. CB(3)471/12-13 -- The Bill

LC Paper No. CB(1)1132/12-13(01) -- Mark-up copy of the Bill prepared by the Legal Service Division (Restricted to members only))

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

2. The Chairman, Mr WONG Ting-kwong, Mr Andrew LEUNG, Mr Abraham SHEK, Mr Kenneth LEUNG and Mr Tony TSE made declaration of interests respectively.

Follow-up actions required of the Administration

3. The Administration was requested to:

- (a) report to the Bills Committee the main points of discussions at its meeting with The Law Society of Hong Kong to be held in early December 2013;
- (b) with regard to the Administration's indication that the total number of regional headquarters, regional offices and local offices in Hong Kong representing their parent companies outside Hong Kong had increased by 2.7% from June 2012 to June 2013, provide the following figures for ease of comparison:
 - (i) the relevant figures for previous years; and

- (ii) the relevant figures of Hong Kong's competitors in the region, such as Singapore, for the same period;
- (c) in relation to the 100% increase in the ad valorem stamp duty ("AVD") rate proposed under the Bill to address the issue of property market exuberance, provide:
 - (i) the reasons for not applying different adjustments to AVD rates applicable to properties at different value bands; and
 - (ii) information on the sensitivity/projection test(s) conducted, if any, on the impact of making different percentage adjustments to the existing AVD rates on property prices and the property market;
- (d) in relation to the refund mechanism provided under the Bill for Hong Kong Permanent Residents to dispose of their only other residential property in Hong Kong within six months from the date of the instrument for the newly acquired residential property, consider Mr WONG Ting-kwong's suggestion that for purchases of uncompleted flats, the counting of the six-month period should commence on the date of the issuance of an occupation permit in respect of the newly acquired residential property; and
- (e) provide statistics on the number of acquisitions of residential and non-residential properties in the name of companies and by Hong Kong Identity Card ("HKIC") holders/non-HKIC holders before and after the introduction of various demand-side management measures, with a breakdown on the type of properties (first-hand/second-hand) and the age profile of those non-company buyers.

(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)491/13-14(02) on 12 December 2013.)

Date of next meeting

4. The Chairman reminded members that the next meeting would be held on Friday, 13 December 2013 at 10:45 am to meet with the Administration.

II. Any other business

5. There being no other business, the meeting ended at 12:15 pm.

Council Business Division 1
Legislative Council Secretariat
25 March 2014

**Proceedings of the sixth meeting of
the Bills Committee on Stamp Duty (Amendment) Bill 2013
on Friday, 22 November 2013, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Meeting with the Administration			
000153 – 000307	Chairman Mr WONG Ting-kwong Mr Andrew LEUNG Mr Abraham SHEK Mr Kenneth LEUNG Mr Tony TSE	The Chairman advised that the Deputy Chairman would chair the meeting later when she left for another urgent meeting. Disclosure of direct and indirect pecuniary interest by members	
000308 – 001416	Chairman Administration	The Administration's response to members' views and concerns raised at the meeting of the Bills Committee on 21 October 2013 as well as the letter from Mr Tony TSE (LC Paper Nos. CB(1)369/13-14(01) and CB(1)369/13-14(02) respectively). The Administration was requested to report to the Bills Committee the main points of discussions at its meeting with The Law Society of Hong Kong to be held in early December 2013.	The Administration to follow up as stated in paragraph 3(a) of the minutes.
001417 – 002156	Deputy Chairman Mr Andrew LEUNG Administration	Mr Andrew LEUNG's views and concerns: (a) whether objective and quantifiable targets had been set for the indicators that the Administration would make reference to in determining the timing for withdrawing the demand-side management measures proposed under the Stamp Duty (Amendment) Bill 2013 ("the Bill"); and (b) in relation to the 2.7% increase in the number of regional headquarters, regional offices and local offices in Hong Kong from June 2012 to June 2013, the Administration should also provide the following figures for ease of comparison: (i) the relevant figures for previous years; and (ii) the relevant figures of Hong Kong's competitors in the region, such as	The Administration to follow up as stated in paragraph 3(b) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>Singapore, for the same period.</p> <p>The Administration's response:</p> <p>(a) given the small and open economy of Hong Kong coupled with the complexity of the property market, no single indicator could fully reflect the underlying situation of the property market. The indicators should be taken into consideration in totality, and the setting of specific targets for these indicators was impractical; and</p> <p>(b) the Secretary for Transport and Housing had undertaken to conduct a review and report to the Legislative Council ("LegCo") one year after the enactment of the Stamp Duty (Amendment) Bill 2012 introducing the enhanced Special Stamp Duty ("SSD") and the Buyer's Stamp Duty ("BSD").</p>	
002157 – 002702	Deputy Chairman Mr WONG Ting-kwong Administration	<p>Mr WONG Ting-kwong's enquiries:</p> <p>(a) whether the recent offer of rebates on stamp duties by individual real estate developers would impact on the implementation of the proposed stamp duty measures; and</p> <p>(b) whether an assessment had been conducted on the impact of the Government high land premium policy on the property market, as high land premium would naturally result in high property prices.</p> <p>The Administration's response:</p> <p>(a) the Administration had been monitoring closely the trend of the property market by conducting regular analysis on the property market, including the transaction volume and prices. It would study the market as a whole and would not comment on the sales tactics of individual developers; and</p> <p>(b) the Administration would make reference to, among others, the prevailing state of the property market in setting the level of land premium. Prices of properties currently put on sale by developers reflected the level of land premium during which the</p>	

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		<p>developers acquired the land as well as the developers' pricing strategy under the current market situation.</p>	
002703 – 003434	Deputy Chairman Mr Tony TSE Administration	<p>Mr Tony TSE's enquiries:</p> <p>(a) whether the Administration had taken into account the offer of rebates on stamp duties by individual real estate developers in its analysis on the trend of the property market and residential property prices, as the rebate amount might not have been reflected in the transacted price; and</p> <p>(b) given that about 50% of Hong Kong Identity Card ("HKIC") holders who purchased residential property from developers (mostly uncompleted flats still under construction) in the first half of 2013 were those who owned another residential property in Hong Kong on the date of the acquisition, these buyers would have real difficulty disposing of their original property within the six-month period to get the refund of the difference between the enhanced and the existing ad valorem stamp duty ("AVD") rate. In this connection, whether the Administration would consider granting exemption for purchases of uncompleted flats to cater for the replacement of original properties with uncompleted flats.</p> <p>The Administration's response that:</p> <p>(a) the Rating and Valuation Department would consider the property market as a whole in analyzing the trend of the property market and property prices. Transactions that involved the rebates on stamp duties offered in connection with the sale of first-hand residential properties by individual developers should only form a small portion of the market;</p> <p>(b) as stamping applicants were not required to state whether the properties acquired were under construction or not, granting exemption for purchases of uncompleted flats would give rise to operational concerns;</p>	

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		<p>(c) the six-month period proposed in the refund mechanism had struck a balance between addressing the needs of Hong Kong Permanent Residents ("HKPRs") to replace their properties and safeguarding the effectiveness of the demand-side management measures; and</p> <p>(d) amongst the number of agreements for sale and purchase of residential properties involving HKIC buyers, the percentage of buyers who did not own any other properties in Hong Kong at the time of acquisition rose from the monthly average of 53% in 2011 to 70% during April to September 2013. The increase in the ratio of home buyers for self-occupation was in line with the policy objective of various demand-side management measures to accord priority to meeting the housing needs of HKPRs.</p>	
003435 – 004213	Deputy Chairman Mr Abraham SHEK Administration	<p>Mr Abraham SHEK's views and concerns:</p> <p>(a) the Administration should provide more detailed information to substantiate its claim that the non-residential property market was overheated;</p> <p>(b) a recent report published by The World Bank had pointed out that Hong Kong's economic competitiveness had been weakened by the demand-side management measures;</p> <p>(c) with regard to the increase in the number of regional headquarters and offices in Hong Kong in the past year, some parent companies might set up an office in Hong Kong for administrative convenience rather than making any investments;</p> <p>(d) due to the increase in acquisition cost, many small and medium enterprises ("SMEs") might refrain from acquiring properties for self-use, and thereby have to bear high rentals;</p> <p>(e) prices of factory buildings might have been driven up by unauthorized/illegal uses such as subdivided flats. The Administration</p>	

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		<p>should step up enforcement actions against such uses;</p> <p>(f) while property prices were reportedly lowered in recent months, purchasers did not actually save anything from the transactions; and</p> <p>(g) the Administration should review the high land premium policy which had resulted in high property prices and hence the exuberance in the property market.</p> <p>The Administration responded that transactions for non-residential properties in 2012 in respect of retail, office and flatted factory space rose by 235%, 46% and 106% respectively when compared to the long-term averages. Prices of retail, office and flatted factory space also surged by cumulative 145%, 68% and 231% respectively compared to the peak in 1997. The proposed demand-side management measures were necessary to cool down the property market immediately.</p>	
004214 – 004805	Deputy Chairman Mr Kenneth LEUNG Administration	<p>Mr Kenneth LEUNG said that in the absence of a sensitivity analysis/projection test on the impact of different percentage adjustments to the existing AVD rates, he could not be convinced that the proposed doubling of the AVD rates across the board would be conducive to stabilizing the property market.</p> <p>The Administration's response that:</p> <p>(a) the proposal on doubling across the board the rates of the existing AVD applicable to both residential and non-residential properties was taken forward having regard to a number of factors, including the existing AVD rates applicable to different value bands, past stamp duty experiences as well as overseas practices; and</p> <p>(b) the property market was driven by demand and supply and the Government had no intention to influence the setting of the property price level by way of stamp duty measures. The aim of the proposed demand-side management measures was to</p>	

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		<p>stabilize the overheated property market so as to ensure the healthy and stable development of the property market which would be conducive to living and business investments.</p>	
004806 – 005318	Deputy Chairman Administration	<p>The Deputy Chairman sought justifications for doubling across the board the rates of the existing AVD applicable to all properties (both residential and non-residential) in all value bands.</p> <p>The Administration responded that since the demand-side management measures were extraordinary measures introduced under exceptional circumstances, the proposal 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 was put forward for simplicity and consistency.</p> <p>The Deputy Chairman requested the Administration to provide the following information:</p> <ul style="list-style-type: none"> (a) the reasons for not applying different adjustments to AVD rates applicable to properties at different value bands; and (b) information on the sensitivity/projection test(s) conducted, if any, on the impact of making different percentage adjustments to the existing AVD rates on property prices and the property market. 	<p>The Administration to follow up as stated in paragraph 3(c) of the minutes.</p>
005319 – 010108	Deputy Chairman Mr WONG Ting-kwong Administration	<p>Mr WONG Ting-kwong's views and concerns:</p> <ul style="list-style-type: none"> (a) was unconvinced of the Administration's argument that it was necessary to require a residential property owner who had acquired a new residential property to sell the original one within a specified timeframe of six months so as to prevent the owner from holding more than one residential property for a long period of time, as an owner could hold as many properties as s/he liked as long as s/he was willing to pay for the enhanced AVD rates; and 	

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		<p>(b) requested the Administration to consider that for purchases of uncompleted residential flats to replace the only other residential property, the counting of the six-month period for HKPR buyers to dispose of their original property should commence on the date of the issuance of an occupation permit in respect of the newly acquired residential property.</p> <p>The Administration responded that having regard to the views of members, it would further address the flexibility in relation to the six-month period for disposal transactions during the clause-by-clause examination of the Bill.</p>	<p>The Administration to follow up as stated in paragraph 3(d) of the minutes.</p>
<p>010109 – 010703</p>	<p>Deputy Chairman Mr Tony TSE Administration</p>	<p>Mr Tony TSE's views and concerns:</p> <p>(a) expressed disappointment that the impact of the rebates on stamp duties offered recently by real estate developers was not taken into account in the analysis of the trend of the property market and property prices, given that the transaction volume for new housing units could sometimes account for more than 10% of the total transaction volume and thus have a great impact on the property market; and</p> <p>(b) expressed concern that it might become increasingly common for companies which acquired residential and non-residential properties to evade tax payment through transfer of company shares.</p> <p>The Administration responded that the monthly average for acquisition of residential properties by non-HKIC holders and companies had dropped from 10% prior to the announcement of the enhanced SSD measure in 2012 to 3% after the announcement of the BSD measure in 2012 and doubled AVD measure in 2013.</p>	
<p>010704 – 011121</p>	<p>Deputy Chairman Mr Abraham SHEK Administration</p>	<p>Mr Abraham SHEK's views and concerns:</p> <p>(a) as the trend of acquiring properties in another person's name (such as by acting as a guardian or trustee) was on the rise, the increase in the percentage of HKIC buyers who did not own any other properties in</p>	

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		<p>Hong Kong at the time of acquisition from the monthly average of 53% in 2011 to 70% during April to September 2013 might be misleading;</p> <p>(b) it was common for investors to acquire properties in the name of companies, and the 70% rebate on stamp duties offered recently by individual real estate developers might attract more acquisitions through companies; and</p> <p>(c) the Administration should provide statistics on the number of acquisitions of residential and non-residential properties in the name of companies and by HKIC/non-HKIC holders before and after the introduction of various demand-side management measures, with a breakdown on the type of properties (first-hand/second-hand) and the age profile of those non-company buyers.</p> <p>The Administration responded that the percentage of HKIC buyers who bought residential properties from developers and did not own any property in Hong Kong at the time of the purchase rose from 20.5% in 2011 to 56.6% in the first half of 2013. None of these buyers acquired the properties in the name of a company nor was acting on another person's behalf.</p>	<p>The Administration to follow up as stated in paragraph 3(e) of the minutes.</p>
<p>011122 – 011638</p>	<p>Deputy Chairman Mr Andrew LEUNG Administration</p>	<p>Mr Andrew LEUNG's views and concerns:</p> <p>(a) the demand-side management measures which increased the cost of property acquisition would make it difficult for SMEs to acquire commercial premises for self-use and in return force them to bear high rentals. Policy uncertainty due to the lack of government indication on the timing for withdrawal of the proposed measures had added to the uncertainty in business planning; and</p> <p>(b) the Administration's efforts to increase land supply for commercial development had been unsatisfactory. The proposal to vacate the three government buildings in Wan Chai for commercial development, which made only little progress so far, was a</p>	

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		<p>case in point.</p> <p>The Administration's response:</p> <p>(a) the relocation of the existing Trade and Industry Department Tower to the Kai Tak Development Area ("KTDA") would be completed in 2014-2015. The Administration had also planned to relocate the offices in the three government buildings at Wan Chai waterfront to KTDA and Tseung Kwan O, and would soon consult LegCo on the relevant relocation proposal; and</p> <p>(b) the Administration had since the announcement of the proposed measures been monitoring closely the development of the property market. In order that adjustments to the proposed measures could be made in a timely manner in response to the development in the property market, the Administration had proposed to include in the Bill a provision empowering the Financial Secretary to amend the value bands and rates of AVD by way of subsidiary legislation subject to negative vetting by LegCo.</p>	
011639 – 012715	Deputy Chairman Administration	<p>The Deputy Chairman's views on the proposed refund mechanism under which HKPR buyers who had acquired a new residential property would be refunded the difference between the enhanced and existing AVD rates:</p> <p>(a) in view of the stagnant property market following the announcement of the demand-side management measures, the Administration should relax the six-month period for HKPR buyers who had acquired a new residential property to dispose of their only other residential property in Hong Kong;</p> <p>(b) echoed Mr WONG Ting-kwong's view that for purchases of uncompleted flats, the counting of the six-month period for HKPR buyers to dispose of their original property should commence on the date of the issuance of an occupation permit in respect</p>	

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		<p>of the newly acquired residential property. Such relaxation would not result in an increase in speculative activities on uncompleted flats, as re-sales within 36 months would be subject to the enhanced SSD rate; and</p> <p>(c) the supplementary information to be provided by the Administration pursuant to members' requests above should cover the period from the introduction of the SSD in 2010 to recent months, so that members would be able to compare the developments of the property market in response to various stamp duty measures.</p>	
012716 – 012816	Deputy Chairman Administration Mr WONG Ting-kwong	Meeting arrangements	