

**立法會**  
**Legislative Council**

LC Paper No. CB(1)712/12-13  
(These minutes have been seen  
by the Administration)

Ref : CB1/SS/7/12/1

**Subcommittee on Residential Properties (First-hand Sales) Ordinance  
(Commencement) Notice**

**Minutes of first meeting  
held on Thursday, 28 February 2013, at 8:30 am  
in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)  
Hon James TO Kun-sun  
Hon TAM Yiu-chung, GBS, JP  
Hon Frederick FUNG Kin-kee, SBS, JP  
Dr Hon Joseph LEE Kok-long, SBS, JP  
Hon WU Chi-wai, MH  
Hon CHAN Han-pan  
Hon Alice MAK Mei-kuen, JP  
Hon Dennis KWOK  
Hon Christopher CHEUNG Wah-fung, JP
- Members absent** : Hon Abraham SHEK Lai-him, SBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Che-cheung, BBS, MH, JP
- Public Officers attending** : **For item II**  
  
Mr D W PESCOD, JP  
Permanent Secretary for Transport and Housing (Housing)  
  
Mr Eugene FUNG  
Deputy Secretary for Transport and Housing  
(Special Duties)

Mr Lawrence PENG  
Senior Assistant Law Draftsman  
Department of Justice

Mrs Maria LAM  
Assistant Director/Legal/  
Kowloon & New Territories West  
(Legal Advisory and Conveyancing Office)  
Lands Department

Mr Armstrong CHU  
Chief Land Conveyancing Officer/  
Port and Railway Development  
(Legal Advisory and Conveyancing Office)  
Lands Department

Mrs Hedy CHU  
Principal Assistant Secretary for Transport and  
Housing (Special Duties)

**Clerk in Attendance :** Ms Miranda HON  
Chief Council Secretary (1)1

**Staff in attendance :** Miss Kitty CHENG  
Assistant Legal Adviser 5

Mrs Mary TANG  
Senior Council Secretary (1)1

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Action

**I. Election of Chairman**

Mr CHAN Kam-lam, the member who had the highest precedence among members of the Subcommittee present at the meeting, presided at the election of Chairman of the Subcommittee. Mr CHAN invited nominations for the chairmanship of the Subcommittee.

2. Mr TAM Yiu-chung nominated Mr CHAN Kam-lam, and the nomination was seconded by Dr Joseph LEE Kok-long. CHAN Kam-lam accepted the nomination.

Action

3. There being no other nominations, Mr CHAN Kam-lam was declared Chairman of the Subcommittee.

**II. Meeting with the Administration**

(L.N. 14 of 2013  
*(published in the Gazette on  
1 February 2013)*) — Residential Properties (First-  
hand Sales) Ordinance  
(Commencement) Notice

*(issued by the Transport and  
Housing Bureau on  
30 January 2013)* — Legislative Council Brief

LC Paper No. CB(1) 2202/11-12 — Report of the Bills Committee  
on Residential Properties  
(First-hand Sales) Bill

LC Paper No. LS23/12-13 — Legal Service Division Report

LC Paper No. CB(1)629/12-13(01) — Background brief prepared by  
the Legislative Council  
Secretariat)

4. The Subcommittee deliberated (index of proceedings attached at the **Annex**).

Admin 5. The Administration was requested to provide for members' reference the second draft of the guidelines on the compliance with the requirements of the Residential Properties (First-hand Sales) Ordinance (Cap. 621), and highlight the issues of concern raised by stakeholders. Members agreed that a further meeting would be held upon receipt of the draft guidelines.

**III. Any other business**

6. There being no other business, the meeting ended at 9:15 am.

**Subcommittee on Residential Properties (First-hand Sales) Ordinance (Commencement) Notice**

**Proceedings of the first meeting  
on Thursday, 28 February 2013, at 8:30 am  
in Conference Room 3 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
<i>Agenda Item I - Election of Chairman</i>			
000058 - 000219	Mr CHAN Kam-lam	Election of Chairman  Mr CHAN Kam-lam was elected Chairman of the Subcommittee.	
<i>Agenda Item II - Meeting with the Administration</i>			
000220 - 000327	Chairman	Opening remarks	
000328 - 000735	Administration	The Administration's explanation on the background to the Residential Properties (First-hand Sales) Ordinance (Commencement) Notice ("the Commencement Notice"), and the progress of the preparatory work for the implementation of the Residential Properties (First-hand Sales) Ordinance (Cap. 621) ("the Ordinance") and the setting up of the Sales of First-hand Residential Properties Authority ("SRPA").	
000736 - 001107	Chairman Mr WU Chi-wai Administration	Mr WU Chi-wai's request for elaboration on the regulation of sales arrangements under the Ordinance, taking the case of the sale of The Apex Horizon as an example.  The Administration's response that –  (a) the sale of hotel units of The Apex Horizon was not covered by the Ordinance which dealt with the sale of first-hand residential properties; and  (b) it would provide details of how SRPA would enforce the Ordinance separately to Mr WU.	
001108 - 001158	Chairman Mr Dennis KWOK Administration	Mr Dennis KWOK's concern about the difficulties in the interpretation of residential properties given that section 6(1)(b) of the Ordinance provided for exemptions on hotels and guesthouses as defined under section 2(1)	

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		<p>of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349), but the latter's definition was different from that of common law.</p> <p>The Chairman reminded that the definition of hotels and guesthouses would be outside the scope of the Commencement Notice. He requested the Lands Department to provide an explanation to Mr KWOK after the meeting.</p>	
001159 - 001628	Chairman Mr James TO Administration	<p>Mr James TO's enquiry on the progress of the preparation of guidelines on the compliance with the requirements of the Ordinance.</p> <p>The Administration's response that –</p> <ul style="list-style-type: none"> <li>(a) the guidelines would cover compliance requirements regarding sales brochures, price lists, register of transactions, sales arrangements, etc;</li> <li>(b) apart from guidelines issued under section 88 of the Ordinance, practice notes which cover the recommended best practices would be issued. There would also be a set of Frequently Asked Questions ("FAQs") to facilitate the trade to understand how SRPA look at specific provisions of the Ordinance;</li> <li>(c) the first draft of the guidelines, practice notes and FAQs had been issued to stakeholders, including the Real Estate Developers Association of Hong Kong, Consumer Council, the Law Society of Hong Kong, Hong Kong Institute of Surveyors, and Hong Kong Institute of Architects, for comments starting from November 2012;</li> <li>(d) discussions on the draft guidelines, practice notes and FAQs were held with stakeholders in the past few months; and</li> <li>(e) the views gathered would be incorporated into the second draft of the guidelines as appropriate and further meetings would be held with stakeholders in March 2013. The guidelines, practice notes and FAQs would be finalized within March 2013 for issue in early April 2013.</li> </ul>	

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001628 - 002102	Mr James TO Administration Chairman	<p>Mr James TO's request to hold a further Subcommittee meeting to discuss the draft guidelines and the issues of concern as raised by stakeholders, as well as to examine the readiness of the implementation of the Ordinance.</p> <p>The Administration's response that –</p> <ul style="list-style-type: none"> <li>(a) the Ordinance had gone through detailed scrutiny before its passage in June 2012;</li> <li>(b) the guidelines issued under section 88 of the Ordinance were drafted to provide guidance on the operation of the Ordinance. The Administration could not add additional requirements in the guidelines on its own;</li> <li>(c) the draft guidelines, practice notes and FAQs would be provided for members' reference; and</li> <li>(d) there should be no delay in the implementation of the Ordinance as there was pressure from the community in taking forward the Ordinance.</li> </ul>	<p>The Administration to provide for members' reference the second draft of the guidelines, highlighting the issues of concern raised by stakeholders</p>
002103 - 002603	Chairman Administration	<p>The Chairman's remarks that –</p> <ul style="list-style-type: none"> <li>(a) the draft guidelines should be made available to members for reference; and</li> <li>(b) as the proposed creation of the two directorate posts in SPRA would be considered by the Finance Committee ("FC") at its meeting on 15 March 2013, a decision on the Commencement Notice should best be reached by the Subcommittee before then.</li> </ul> <p>The Administration's response that –</p> <ul style="list-style-type: none"> <li>(a) the second draft of the guidelines, practice notes and FAQs would be made available to stakeholders in early March 2013; and</li> <li>(b) further meetings would be held with stakeholders in mid to late March 2013.</li> </ul>	

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002603 - 002819	Chairman Mr WU Chi-wai Mr James TO Administration	Mr WU Chi-wai's request for the provision of the draft guidelines for members' reference.  Mr James TO's request for a meeting to be held after receipt of the draft guidelines.	
002820 - 003836	Chairman Mr James TO Administration	Mr James TO's enquiries on –  (a) the progress of the preparatory work for the implementation of the Ordinance; and  (b) the recruitment of the multi-disciplinary team for SRPA and whether the staff to be recruited would be familiar with market practices.  The Administration's response that –  (a) the Administration had maintained dialogue with stakeholders on the draft guidelines, practice notes and FAQs;  (b) approval for the creation of the two directorate posts in SRPA would be sought from FC at its meeting on 15 March 2013;  (c) non-directorate posts would also be created for the multi-disciplinary team of SRPA. The posts would be filled starting from 1 April 2013;  (d) the 32-member team of SRPA would comprise civil servants from different disciplines, including housing managers, building surveyors, and estate surveyors, etc. As SRPA would be set up under the Housing Branch of the Transport and Housing Bureau, all the posts to be created for SRPA would be civil service posts. The Police would provide training on investigation and collection of evidence to the team. To cope with the projected increase in the workload arising from the setting up of SRPA to implement the Ordinance, the Department of Justice would create two Senior Government Counsel posts, one in the Planning, Environment, Lands and Housing (Advisory) Unit of the Civil Division and the other in the Prosecutions Division;	

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		<p>(e) workshops would be organized in early April 2013 to brief stakeholders on the Ordinance, guidelines practice notes and FAQs. Details of the workshops would be announced soon;</p> <p>(f) workshops would be arranged to facilitate vendors to understand how to provide information to the Sale of First-hand Residential Properties Electronic Platform ("SRPE") as required by the Ordinance. Vendors might also participate in the trial run on how to submit electronic documents for uploading onto the SRPE to be carried out in late March 2013. The SRPE would be ready for public access on 29 April 2013;</p> <p>(g) Announcements of Public Interest, pamphlets for prospective purchasers, and advertisements promoting the commencement of the Ordinance would be ready soon; and</p> <p>(h) a telephone hotline on matters relating to the Ordinance would come into operation to dovetail with the publicity programme.</p>	
003837 - 004218	Chairman Mr Frederick FUNG Administration	<p>Mr Frederick FUNG's concern about –</p> <p>(a) the readiness of the trades in complying with the Ordinance; and</p> <p>(b) the confusion arising from the use of saleable area ("SA") as the only basis to quote property sizes and prices for first-hand residential properties and the common use of gross floor area for quoting property sizes and prices for second-hand residential properties.</p> <p>The Administration's response that –</p> <p>(a) the Ordinance would only apply to the sale of first-hand residential properties;</p> <p>(b) guidelines had been issued by the Estate Agents Authority requiring all estate agents to use SA to quote property sizes and property prices in the sales of second-hand residential properties starting from</p>	



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		1 January 2013; and  (c) with a change in the mindset of the public, it was likely that in the long run, property sizes and prices in the sale of second-hand residential properties would also be presented in SA only.	
004219 - 004627	Chairman Mr James TO Administration	Mr James TO's request that efforts be made for SRPA to leverage on the expertise and experience of people who were familiar with the sales tactics of property developers so as to ensure the effective enforcement of the Ordinance.  The Chairman requested the Administration to provide the second draft of the guidelines for reference by the Subcommittee.	