

立法會
Legislative Council

LC Paper No. CB(1)1041/16-17
(These minutes have been seen
by the Administration)

Ref : CB1/BC/1/16

Bills Committee on Stamp Duty (Amendment) Bill 2017

**Minutes of second meeting
on Tuesday, 28 March 2017, at 9:00 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon WONG Ting-kwong, SBS, JP (Chairman)
Hon James TO Kun-sun
Hon Paul TSE Wai-chun, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung
Hon Holden CHOW Ho-ding
Hon Wilson OR Chong-shing, MH
Dr Hon YIU Chung-yim

Members absent : Hon Abraham SHEK Lai-him, GBS, JP
Hon WU Chi-wai, MH
Hon CHUNG Kwok-pan
Hon Alvin YEUNG

Public officers attending : Agenda Item I
Transport and Housing Bureau
Miss Agnes WONG
Deputy Secretary for Transport and Housing
(Housing)

Miss Joyce KOK
Principal Assistant Secretary for Transport and
Housing (Housing)(Private Housing)

Mr Andrew FAN
Senior Administrative Officer (Private Housing) 1

Inland Revenue Department

Mr TAM Tai-pang
Deputy Commissioner of Inland Revenue
(Operations)

Mr WONG Kai-cheong
Chief Assessor (Stamp Office)

**Attendance by
invitation**

: Agenda Item I

Federation of International SME Ltd

Mr Gary LO Chi-kwong
President

Democratic Alliance for the Betterment and Progress
of Hong Kong

Mr CHAN Chun-chung
Deputy Spokesperson on Housing Policy

The Civic Party

Miss Sarah WONG Ka-ying
The Representative

The Hong Kong Japanese Chamber of Commerce

Mr Masakazu YAGYU
Secretary General

The Hong Kong Institute of Surveyors

Sr LAU Chun-kong
Chairman of Land Policy Panel and Immediate Past
President

Economy Panel of The Liberal Party

Mr CHAN Ho-lim
Convener, Economy Panel of The Liberal Party

自由黨發展及建造業關注組

Mr Howard CHAO
關注組召集人

Individual

Mr HO Wang

Hong Kong Chamber of Professional Property
Consultants Limited

Mr WONG Dun-king
Honorary President

Hong Kong Real Estate Agencies General
Association

Mr Calvin TSE Shun-lai
Chairman

Estate Agent Association

Mr Evan NG Yuen-hing
Chairman

Hong Kong Property Agencies Association

Mr Tony KWOK Tak-leung
Chairman

Clerk in attendance: Mr Desmond LAM
Chief Council Secretary (1)3

Staff in attendance: Miss Winnie LO
Assistant Legal Adviser 7

Ms Connie HO
Senior Council Secretary (1)3

Ms May LEUNG
Legislative Assistant (1)3

Miss Zoe YIP
Clerical Assistant (1)3

Action

I. Meeting with deputations and the Administration

- (LC Paper No. CB(1)706/16-17(01) -- List of follow-up actions arising from the discussion at the meeting on 28 February 2017
- LC Paper No. CB(1)706/16-17(02) -- Administration's responses to issues raised at the meeting on 28 February 2017
- LC Paper No. CB(3)295/16-17 -- The Bill
- LC Paper No. CB(1)603/16-17(01) -- Mark-up copy of the Bill prepared by the Legal Service Division (Restricted to members only)
- File Ref: HDCR4-3/PH/1-10/0-1 -- Legislative Council Brief issued by the Transport and Housing Bureau
- LC Paper No. LS31/16-17 -- Legal Service Division Report

- LC Paper No. CB(1)603/16-17(02) -- Paper on Stamp Duty (Amendment) Bill 2017 prepared by the Legislative Council Secretariat (background brief)
- LC Paper No. CB(1)603/16-17(03) -- Assistant Legal Adviser's letter dated 8 February 2017 to the Administration
- LC Paper No. CB(1)603/16-17(04) -- Administration's reply to Assistant Legal Adviser's letter dated 8 February 2017
- LC Paper No. CB(1)620/16-17(01) -- Assistant Legal Adviser's letter dated 27 February 2017 to the Administration
- LC Paper No. CB(1)706/16-17(03) -- Administration's reply to Assistant Legal Adviser's letter dated 27 February 2017)

Disclosure of pecuniary interest

The Chairman reminded members that under Rule 83A of the Rules of Procedure of the Legislative Council, they should disclose the nature of any direct or indirect pecuniary interest before they spoke. Members who had disclosed the nature of their pecuniary interest relating to the subject of the Bill at the previous Bills Committee meetings should disclose the same interest at each of the subsequent meetings before they spoke.

2. Mr Paul TSE declared that he had involved in a real estate transaction after 5 November 2016, and as such, he would be directly affected by the new ad valorem stamp duty rate of 15% proposed under the Bill.

Invitation of views from deputations

3. The Bills Committee received views from 11 deputations and 1 individual attending the meeting. The Chairman reminded the individual and representatives of the deputations that when addressing the Bills Committee, they would not be covered by the protection and immunity of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) and their written submissions were also not covered by the said Ordinance. Members also noted the written submissions provided by the following deputations which did not attend the

meeting –

- (a) The Law Society of Hong Kong (LC Paper No. CB(1)720/16-17(01) (English version only));
 - (b) The Hong Kong Conveyancing and Property Law Association Limited (LC Paper No. CB(1)720/16-17(02) (English version only)); and
 - (c) Joint Council of Estate Agents Associations (LC Paper No. CB(1)728/16-17(02) (Chinese version only)).
4. The Bills Committee deliberated (Index of proceedings attached at **Annex**).
5. During the deliberations of the Bills Committee, the Chairman suspended the meeting at 11:14 am. The meeting was resumed at 11:25 am.

Follow-up actions to be taken by the Administration

6. The Administration was requested to provide a written response to the deputations' written submissions received and views expressed at the meeting.

(Post-meeting note : The Administration's response was issued to members vide LC Paper No. CB(1)930/16-17(03) (Chinese version) on 12 May 2017.)

II. Any other business

Date of next meeting

7. The Chairman reminded members that the next meeting would be held on Friday, 21 April 2017 at 10:45 am.
8. There being no other business, the meeting ended at 11:26 am.

**Proceedings of the second meeting of
the Bills Committee on Stamp Duty (Amendment) Bill 2017
on Tuesday, 28 March 2017, 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			
000000 – 000935	Chairman	Opening remarks The Chairman reminded members that under Rule 83A of the Rules of Procedure, they should disclose the nature of any direct or indirect pecuniary interest before they spoke.	
000936 – 001333	Mr Gary LO Chi-kwong, Federation of International SME Ltd	Presentation of views as set out in submission (LC Paper No. CB(1)747/16-17(02) (Chinese version only))	
001334 – 001728	Mr CHAN Chun-chung, Democratic Alliance for the Betterment and Progress of Hong Kong	Presentation of views	
001729 – 002200	Miss Sarah WONG Ka-ying, The Civic Party	Presentation of views as set out in submission (LC Paper No. CB(1)747/16-17(01) (Chinese version only))	
002201 – 002415	Mr Masakazu YAGYU, The Hong Kong Japanese Chamber of Commerce	Presentation of views	
002416 – 002934	Sr LAU Chun-kong, The Hong Kong Institute of Surveyors ("HKIS")	Presentation of views as set out in submission (LC Paper No. CB(1)742/16-17(01) (English version only))	
002935 – 003255	Mr CHAN Ho-lim, Economy Panel of The Liberal Party	Presentation of views	

Time marker	Speaker	Subject(s)	Action required
003256 – 003703	Mr Howard CHAO, 自由黨發展及建造 業關注組	Presentation of views	
003704 – 003945	Mr HO Wang	Presentation of views	
003946 – 004505	Mr WONG Dun-king, Hong Kong Chamber of Professional Property Consultants Limited ("HKCPPCL")	Presentation of views as set out in submission (LC Paper No. CB(1)706/16-17(04) (Chinese version only))	
004506 – 004936	Mr Calvin TSE Shun-lai, Hong Kong Real Estate Agencies General Association ("HKREAGA")	Presentation of views as set out in submission (LC Paper No. CB(1)706/16-17(05) (Chinese version only))	
004937 – 005450	Mr Evan NG Yuen-hing, Estate Agent Association	Presentation of views as set out in submission (LC Paper No. CB(1)706/16-17(06) (English version only))	
005451 – 010015	Mr Tony KWOK Tak-leung, Hong Kong Property Agencies Association ("HKPAA")	Presentation of views as set out in submission (LC Paper No. CB(1)728/16-17(01) (Chinese version only))	
010016 – 010408	Chairman Dr YIU Chung-yim Mr Tony KWOK Tak-leung (HKPAA) Mr WONG Dun-king (HKCPPCL)	Dr YIU Chung-yim was of the view that comparing with the proposed introduction of the new ad valorem stamp duty ("AVD") rate of 15% (New Residential Stamp Duty ("NRSD")) to reduce local investment demand for residential properties by increasing the transaction costs across the board, capital gains tax ("CGT") might be a more effective and targeted measure to curb speculations in the residential property market because genuine users who acquired a residential property for replacement of their original property would not be affected by CGT.	

Time marker	Speaker	Subject(s)	Action required
		<p>Mr Tony KWOK Tak-leung of HKPAA shared Dr YIU's view, adding that many users in the property market had encountered difficulties in respect of property replacement due to high transaction costs.</p> <p>Mr WONG Dun-king of HKCPPCL remarked that the rich could be able to find ways to evade NRSD but average people might not be able to do so.</p>	
010409 – 010851	<p>Chairman Mr Holden CHOW Mr Tony KWOK Tak-leung (HKPAA)</p>	<p>Mr Holden CHOW was of the view that –</p> <p>(a) pursuant to the existing exemption arrangement provided for under the doubled ad valorem stamp duty ("DSD") regime, a Hong Kong Permanent Resident ("HKPR") who acquired a residential property for replacement of his/her only other property could file partial refund of AVD paid if his/her only other property was disposed of within six months from the date of acquiring the new property ("the six-month specified period"). The Administration should consider relaxing the six-month specified period as it might not be practicable for property owners to sell their only other property within that relatively short period of time; and</p> <p>(b) to address the cash flow problem encountered by HKPR-buyers in acquiring a residential property to replace their only other property, the Administration should consider not requiring the payment of NRSD upfront but allowing the HKPR-buyer concerned to submit necessary information to the Inland Revenue Department ("IRD") to prove that his/her only other property had been disposed of within the six-month specified period to apply for exemption from NRSD ("delayed NRSD payment proposal").</p> <p>Mr Tony KWOK Tak-leung of HKPAA concurred with Mr Holden CHOW's views, and urged the Administration to consider the following suggestions made by the industry –</p> <p>(a) extending the six-month specified period to one year to allow more time for property owners to sell their original residential property, which was a very important decision for them to make given the substantial value of residential properties in Hong Kong; and</p>	

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		(b) allowing payment of NRSD by installments to ease the cash flow problem of HKPR-buyers who acquired a new residential property to replace their only other residential property.	
010852 – 011943	Chairman Ms Alice MAK Mr WONG Dun-king (HKCPPCL) Sr LAU Chun-kong (HKIS)	Ms Alice MAK shared the view that NRSD had raised the transaction costs and boosted residential properties prices as a consequence, rendering it difficult for genuine users to proceed with property replacement. She sought advice from the deputations on the measures that the Administration should take to stabilize residential property prices. Mr WONG Dun-king of HKCPPCL suggested that the Administration should put in place measures to encourage residential property owners to proceed with property replacement, which would in turn increase the supply of smaller size flats in the second-hand residential property market and help stabilize the prices of residential properties in the short term.	
011944 – 012957	Chairman Mr James TO Sr LAU Chun-kong (HKIS) Mr Tony KWOK Tak-leung (HKPAA)	In response to Mr James TO's enquiry, Sr LAU Chun-kong of HKIS considered that it was necessary to maintain a certain proportion of rental flats in the residential property market. Increasing the proportion of self-use flats would inevitably leading to a reduction in the number of rentable flats. Mr Tony KWOK Tak-leung of HKPAA suggested that the Administration should consider providing incentives to residential property owners to encourage them to put their flats for sale in the second-hand residential property market. Details of the relevant proposal were set out in paragraph 3 of his submission (LC Paper No. CB(1)728/16-17(01) (Chinese version only))	
012958 – 013949	Chairman Administration	At the invitation of the Chairman, the Administration gave the following initial responses to members' and deputations' views expressed at the meeting – (a) in response to the comments that NRSD was ineffective in curbing increases in residential property prices, the Administration advised that there would never be one single measure that could address the issue of soaring property prices. The current term of Government had strived to increase the supply of public and	

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		<p>private housing units to tackle the housing problem at root which, however, would take some time to realize;</p> <p>(b) regarding the views that NRSD had further raised residential property prices, the Administration advised that NRSD was introduced with a view to cooling down the residential property market, which had become exuberant since the third quarter of 2016, particularly in the mass market flats. In fact, the month-on-month increases in respect of the number of residential property transactions and the price and rental indices of private domestic flats had slowed down after the introduction of NRSD;</p> <p>(c) in response to the views that the demand-side management measures had substantially reduced the number of flats put up for sale in the second-hand residential property market, the Administration advised that from 2011 up to the present, the proportion of second-hand residential property transactions accounted for about 70% to 80% of the total number of property transactions per annum. The transaction volume of second-hand residential properties in the market was fairly stable during the aforementioned period;</p> <p>(d) in respect of the suggestion on extending the six-month specified period provided for under the existing AVD refund mechanism under the DSD regime, the Administration advised that in view of the suggestions made by members of the Bills Committee on Stamp Duty (Amendment) Bill 2013, the six-month specified period was adjusted to commence from the date on which the conveyance on sale, instead of the agreement for sale, in respect of the newly acquired property was executed. Meanwhile, refund application could be made within two years after the execution of the agreement for sale of the newly acquired property, or two months from the execution of conveyance of sale of the only original property, whichever was the later. It was also noted that the repayment period of bridging loans provided by local banks for owners in replacing their residential properties</p>	

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		<p>was usually six months. In view of the above, the six-month specified period was considered reasonable and appropriate;</p> <p>(e) regarding the delayed NRSD payment proposal suggested by Mr Holden CHOW, the Administration was of the view that the proposal was infeasible from operation perspective as IRD had to put in disproportionate resources and manpower to monitor such buyers for a long period of time to ascertain whether the only original residential properties were disposed of within the six-month specified period, if otherwise, to claw back the underpaid AVD; and</p> <p>(f) in response to the views held by some deputations that the demand-side management measures had on one hand reduced supply of second-hand residential properties and raised property prices while, on the other hand, had reduced the number of rental accommodation thereby driving up private rental in the market, the Administration advised that the relevant demand-side management measures should not bring about both phenomena at the same time. As most property owners choosing not to sell their vacant residential properties in the market would underlet these properties for rental income, the reduction in the number of flats put up for sale in the second-hand market would probably increase the supply of rental accommodation. In fact, the month-on-month increases of the private domestic property rental index for the period before and after the announcement of NRSD were comparable, whereas the month-on-month increases of the overall price index for private domestic flats had slowed down after the introduction of NRSD.</p>	
013950 – 014825	Chairman Mr James TO Mr Calvin TSE Shun-lai (HKREAGA) Mr HO Wang Mr Tony KWOK Tak-leung (HKPAA)	<p>Discussion on Mr James TO's concern on whether residential property prices would have an abrupt upsurge if the Bill was not passed.</p> <p>Mr HO Wang stated his view that the reduction in the supply of second-hand residential properties in the market amid strong demand had resulted in soaring residential property prices.</p>	

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014826– 015839	Chairman Administration	<p>The Chairman was of the view that –</p> <ul style="list-style-type: none"> (a) given that interior decoration works for a residential property would normally take a relatively longer time to complete, it might not be feasible for property owners to move into the newly acquired property and vacate their original property for disposal in the market within the six-month specified period. The Administration was urged to consider relaxing the restriction on the six-month specified period to nine or 12 months as suggested by the industry to allow sufficient time for HKPR-buyers to proceed with property replacement; (b) the Administration should not dismiss Mr Holden's CHOW's delayed NRSD payment proposal simply on the ground that it would cause administrative inconvenience to IRD. To guard against default payment of NRSD, IRD might consider charging interest on the outstanding amount of unpaid AVD or imposing an encumbrance on the property concerned as a deterrence; and (c) the Administration should put in place specific measures to plug the policy loophole under the NRSD regime where multiple properties were acquired under a single instrument by a HKPR acting on his/her own behalf who was not a beneficial owner of any other residential property in Hong Kong at the time of acquisition to circumvent payment of NRSD. <p>The Administration responded that –</p> <ul style="list-style-type: none"> (a) it would conduct a review on the acquisitions of multiple residential properties under a single instrument by HKPR-buyers to avoid the payment of NRSD, with a view to ascertaining whether such acquisitions merely involved some isolated cases or had developed into a trend. The Administration noted the public's concern in this regard and had been closely monitoring the situation; and (b) while noting that there might be some particular situations rendering it difficult for some HKPR-buyers seeking property replacement to 	

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		<p>dispose of their original property within the six-month specified period, the Administration would, in determining whether the relevant period should be relaxed, take into account the general circumstances in the market and strike a balance between safeguarding the effectiveness of the NRSD measure and the genuine needs of property owners in respect of property replacement.</p>	
015840–021029	<p>Chairman Mr Paul TSE Mr Tony KWOK Tak-leung (HKPAA) Mr Howard CHAO(自由黨發展及建造業關注組) Mr WONG Dun-king (HKCPPCL)</p>	<p>Mr Paul TSE remarked that –</p> <p>(a) sharing the Chairman's view, he did not accept the Administration's explanation that Mr Holden CHOW's delayed NRSD payment proposal was infeasible from the operation perspective of IRD. The Administration should strive to help ease the cash flow problem of genuine users seeking property replacement in the market notwithstanding that the relevant measures might increase the administrative work of IRD; and</p> <p>(b) the Administration should consider relaxing the restriction of the six-month specified period and formulating measures to plug the policy loophole under the NRSD regime where multiple properties were acquired under a single instrument by a HKPR acting on his/her own behalf who was not a beneficial owner of any other residential property in Hong Kong at the time of acquisition to circumvent payment of NRSD.</p> <p>Discussion on measures to increase the number of second-hand residential properties put for sale in the market with a view to stabilizing property prices.</p> <p>Mr Howard CHAO clarified the position of property developers on the proposed NRSD.</p>	
021030 – 021125	<p>Chairman Dr YIU Chung-yim Deputations</p>	<p>In response to Dr YIU Chung-yim's enquiry, the representatives of deputations advised that they did not support the introduction of NRSD even if enhancements were made to plug the policy loophole under the NRSD regime where multiple properties were acquired under a single instrument by a HKPR acting on his/her own behalf who was not a beneficial owner of any other residential property in Hong Kong</p>	

Time marker	Speaker	Subject(s)	Action required
		at the time of acquisition to circumvent payment of NRSD, and to extend the six-month specified period.	
021126 – 021429	Chairman Mr James TO Mr HO Wang Deputations	Discussion on whether the relaxation of the six-month specified period would lead to reduction in the supply of second-hand residential properties in the market and encourage speculation.	
021430 021505	Chairman Mr Paul TSE	Mr Paul TSE's disclosure of pecuniary interest	
021506 – 022619	Chairman	The Chairman suspended the meeting for 10 minutes.	
022620– 022737	Chairman	Meeting arrangements. Closing remarks.	