

立法會
Legislative Council

LC Paper No. CB(1)1434/16-17
(These minutes have been seen
by the Administration)

Ref : CB1/BC/1/16

Bills Committee on Stamp Duty (Amendment) Bill 2017

**Minutes of fourth meeting
on Monday, 15 May 2017, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Members present : Hon WONG Ting-kwong, SBS, JP (Chairman)
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, GBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon WU Chi-wai, MH
Hon Alice MAK Mei-kuen, BBS, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Wilson OR Chong-shing, MH

Members absent : Hon Kenneth LEUNG
Hon Holden CHOW Ho-ding
Hon KWOK Wai-keung
Dr Hon YIU Chung-yim

[According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.]

**Public officers
attending**

: Agenda Item II

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)

Ms TSE Yuk-yip
Assistant Commissioner of Inland Revenue

Mr WONG Kai-cheong
Chief Assessor (Stamp Office)

Department of Justice

Ms Françoise LAM
Senior Assistant Law Draftsman

Miss Wendy HO
Government Counsel

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

Miss Zoe YIP
Clerical Assistant (1)3

Action

I. Meeting with the Administration

Matters arising from previous meeting

- (LC Paper No. CB(1)930/16-17(01) -- List of follow-up actions arising from the discussion at the meeting on 21 April 2017
- LC Paper No. CB(1)865/16-17(01) -- Hon James TO Kun-sun's letter dated 21 April 2017
- LC Paper No. CB(1)930/16-17(02) -- Administration's responses to issues raised at the meeting on 21 April 2017 and Hon James TO Kun-sun's letter dated 21 April 2017
- LC Paper No. CB(1)930/16-17(03) -- Administration's responses to comments expressed by and written submissions received from deputations/individuals
- LC Paper No. CB(1)823/16-17(01) -- Administration's letter dated 12 April 2017 on "Tightening up of exemption arrangement under the New Residential Stamp Duty regime"

Clause-by-clause examination of the Bill

- 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)

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

Disclosure of pecuniary interest

2. 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. 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.

3. Mr Abraham SHEK declared that he was representing the functional constituency of Real Estate and Construction.

Follow-up actions to be taken by the Administration

4. The Administration was requested to reconsider members' suggestions that –
- (a) to assist Hong Kong Permanent Resident ("HKPR") buyers who were to acquire a residential property to replace their only other residential property in Hong Kong in easing their financial burden under the New

Residential Stamp Duty ("NRSD") regime, the Inland Revenue Department could accept bank guarantee submitted by the concerned HKPR-buyers for the amount equivalent to the difference between the new flat rate of 15% of ad valorem stamp duty ("AVD") and the lower AVD rate set out at Scale 2 in the Stamp Duty Ordinance (Cap. 117), to the effect that HKPR-buyers seeking property replacement were not required to make payment of NRSD in full upfront; and

- (b) the six-month specified period under the existing AVD refund mechanism of the doubled AVD regime be extended to, say nine or 12 months, so as to allow more time for HKPR-buyers to proceed with property replacement;

and to consider addressing these two suggestions in the context of another bill which would seek to amend the Stamp Duty Ordinance (Cap. 117) to implement the tightened exemption arrangement under the NRSD regime as announced by the Administration on 11 April 2017 in respect of acquisition of multiple residential properties under a single instrument to be introduced to the Legislative Council for scrutiny in due course.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(1)1050/16-17(03) on 2 June 2017.)

Date of next meeting

- 5. The Chairman reminded members that the next meeting would be held on Monday, 5 June 2017 at 10:45 am.

II. Any other business

- 6. There being no other business, the meeting ended at 12:44 pm.

Council Business Division 1
Legislative Council Secretariat
26 September 2017

**Proceedings of the fourth meeting of
the Bills Committee on Stamp Duty (Amendment) Bill 2017
on Monday, 15 May 2017, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000000 – 000759	Chairman	Opening remarks The Chairman's reminder to members on the requirements of disclosure of pecuniary interest under Rule 83A of the Rules of Procedure before they spoke.	
000800 – 001630	Chairman Administration Mr James TO	Briefing by the Administration's on its responses to comments expressed by and written submissions received from deputations/individuals (LC Paper No. CB(1)930/16-17(03)).	
001631 – 002305	Chairman Mr CHUNG Kwok-pan Administration	The Administration's response to Mr CHUNG Kwok-pan's request for the Administration to reconsider extending the six-month specified period provided for under the existing ad valorem stamp duty ("AVD") refund mechanism of the doubled ad valorem stamp duty ("DSD") regime to nine months to allow more time for Hong Kong Permanent Resident ("HKPR") buyers to proceed with property replacement.	
002306 – 003152	Chairman Mr James TO Administration	Referring to the decreasing number of sales of secondary residential property in the value band of \$3 million to \$4 million in 2017, which was estimated to be about 6 000 transactions based on the average number of transactions in January and February 2017, as compared with previous years (Annex C to LC Paper No. CB(1)930/16-17(02)), Mr James TO pointed out that the six-month specified period might not be a reasonable timeframe for HKPR-buyers seeking property replacement to dispose of their only other residential property which were usually smaller-sized properties in the aforesaid value band.	
003153 – 003719	Chairman Mr Abraham SHEK	Mr Abraham SHEK's declaration of interest and criticism that – (a) the Administration had not taken heed of the public's views regarding the suggestion to extend the six-month specified period for HKPRs seeking property replacement to dispose of their only other residential property under the existing AVD refund mechanism; (b) the demand-side management measures were	

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		<p>ineffective in addressing the issue of soaring residential property prices, which had increased by 52% between 2012 and now. Such measures were the cause to the shrinking secondary residential property market, which was evidenced by the substantial reduction in the number of secondary sales from 122 132 transactions in 2010 to 37 908 transactions in 2016 (Annex C to LC Paper No. CB(1)930/16-17(02)).</p>	
003720 – 004014	Chairman	<p>The Chairman said that it was a common practice for property owners seeking property replacement to adopt a "buy-first-sell-later" approach. He echoed Mr CHUNG Kwok-pan's view and requested the Administration to reconsider members' suggestion that the six-month specified period under the existing AVD refund mechanism of the DSD regime be extended to, say nine or 12 months, so as to allow more time for HKPR-buyers to proceed with property replacement.</p>	
004015 – 004229	Chairman Mr James TO	<p>Mr James TO was of the view that HKPR-buyers might tend to buy first-hand residential property as the replacement property given that they would enjoy a longer period of time under the existing AVD refund mechanism to dispose of their only other residential property by acquiring uncompleted flats.</p>	
004230 – 004446	Chairman Mr CHUNG Kwok-pan Administration	<p>Mr CHUNG Kwok-pan was of the view that the demand-side management measures had substantially reduced the number of sales of secondary residential property and the supply of residential properties in the second-hand market amid strong demand, thereby further raising residential property prices.</p> <p>Mr CHUNG Kwok-pan reiterated his request for the Administration to consider extending the six-month specified period under the existing AVD refund mechanism of the DSD regime to nine months to facilitate HKPR-buyers to proceed with property replacement. He indicated that he would consider casting his vote against the NRSD measure proposed under the Bill as it was not an effective measure to address the soaring property price issue.</p>	
004447 – 005132	Chairman Miss Alice MAK Administration	<p>Miss Alice MAK's views and request that –</p> <p>(a) NRSD had not only failed to meet its policy objective to curb increases in residential property prices, but it had also affected genuine users in the</p>	

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		<p>market as it had increased the transaction costs of residential property acquisition; and</p> <p>(b) there were comments that the Administration's policy of restricting the statutory time limit for HKPR-buyers seeking property replacement to dispose of their only other residential property to six months was in favour of property developers as it rendered first-hand residential properties more attractive to buyers. The Administration should consider members' suggestion of extending the six-month specified period under the existing AVD refund mechanism of the DSD regime to nine months to facilitate HKPR-buyers to proceed with property replacement.</p> <p>The Administration considered that the six-month specified period for disposal of the original property practicable and appropriate, and reiterated the considerations for not extending the six-month specified period as detailed in the paper (paragraph 8 of LC Paper No. CB(1)930/16-17(02)). It also 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 had been adjusted to commence from the date of the conveyance on sale instead of the agreement for sale and purchase of the newly acquired property. The aforesaid adjustment was not intended to benefit property developers.</p>	
005133 – 005717	Chairman Mr James TO Administration	<p>Mr James TO was of the view that extending the six-month specified period to nine months should not affect the circulation of existing stock of secondary residential properties as claimed by the Administration, given that the number of residential property that would be held up in relevant cases was rather insignificant when compared with the overall supply of first-hand and second-hand residential properties in the market.</p> <p>The Chairman urged the Administration to reconsider members' suggestion that the six-month specified period under the existing AVD refund mechanism of the DSD regime be extended to, say nine or 12 months.</p> <p>Mr James TO indicated that he might propose Committee stage amendments ("CSAs") to the Bill to extend the six-month specified period to nine months or 12 months should the Administration not accede to members' request in this regard.</p>	

Time marker	Speaker	Subject(s)	Action required
005718 – 010220	Chairman Mr Jeffrey LAM Administration	<p>In response to Mr Jeffrey LAM's enquiry, the Administration presented the statistics on residential property transactions between September and November 2016 (before the introduction of the NRSD measure) and those between December 2016 and March 2017 (after the introduction of the NRSD measure) to demonstrate that the NRSD measure had been effective in reducing demand from HKPR-buyers who already owned one or more residential properties in Hong Kong.</p> <p>Mr Jeffrey LAM was of the view that the various demand-side management measures were ineffective in addressing the issue of soaring residential property prices. He urged the Administration to increase land supply by expediting land reclamation projects, as well as the development of green belt and brownfield sites, to address the issue of housing supply shortage at root.</p>	
010221 – 010654	Chairman Mr WU Chi-wai Administration	<p>In response to Mr WU Chi-wai's enquiry, the Administration said that the Government was notified by the Hong Kong Monetary Authority ("HKMA") shortly before the announcement of measures to strengthen the credit risk management of authorized institutions with respect to lending to property developers on 12 May 2017.</p>	
010655 – 010820	Chairman Mr Jeffrey LAM Administration	<p>Mr Jeffrey LAM was of the view that the Administration should enhance communication with HKMA in formulating measures to address the overheated property market. The Administration should also review whether the demand-side management measures had any adverse impact on business operations in Hong Kong, and if so, it should adjust these measures as and when necessary.</p>	
010821 – 012224	Chairman Mr James TO Administration	<p>Briefing by the Administration on its responses to issues raised at the meeting on 21 April 2017 and Hon James TO Kun-sun's letter dated 21 April 2017 (LC Paper No. CB(1)930/16-17(02)).</p>	
012225 – 013914	Chairman Mr CHUNG Kwok-pan Mr James TO Administration	<p>The Administration's response to members' enquiry as to why accepting bank guarantee submitted by the concerned HKPR-buyers for the amount equivalent to the difference between the new flat rate of 15% of AVD and the lower AVD rate set out at Scale 2 in the Stamp Duty Ordinance (Cap. 117) ("the bank guarantee proposal") would incur substantial administration cost on the Inland Revenue Department ("IRD"). At the Chairman's request, the Administration would reconsider members' suggestions that –</p>	<p>See LC Paper No. CB(1)1050/16-17(03)</p>

Time marker	Speaker	Subject(s)	Action required
		<p>(a) to assist HKPR-buyers who were to acquire a residential property to replace their only other residential property in Hong Kong in easing their financial burden under the NRSD regime, IRD could accept bank guarantee submitted by the concerned HKPR-buyers for the amount equivalent to the difference between the new flat rate of 15% of AVD and the lower AVD rate set out at Scale 2 in the Stamp Duty Ordinance, to the effect that HKPR-buyers seeking property replacement were not required to make payment of NRSD in full upfront; and</p> <p>(b) the six-month specified period under the existing AVD refund mechanism of the DSD regime be extended to, say nine or 12 months, so as to allow more time for HKPR-buyers to proceed with property replacement.</p> <p>The Administration should consider addressing these two suggestions in the context of another bill, which would seek to amend the Stamp Duty Ordinance to implement the tightened exemption arrangement provided for HKPR-buyers under the NRSD regime as announced by the Administration on 11 April 2017 in respect of acquisition of multiple residential properties under a single instrument, to be introduced to the Legislative Council ("LegCo") for scrutiny in due course.</p>	
013915 – 015625	Chairman Mr James TO Administration	<p>In response to Mr James TO's enquiry, the Administration reiterated the considerations for not adopting the bank guarantee proposal, as detailed in paragraph 6 of LC Paper No. CB(1)930/16-17(02).</p> <p>Mr James TO disagreed with the Administration's view that the bank guarantee proposal would invite owners without genuine intention to dispose of their original property to take advantage of the proposal to acquire a new residential property under the guise of property replacement and thus encourage property speculation.</p>	
015626 – 015732	Chairman Mr James TO Mr Abraham SHEK Administration	<p>In response to Mr James TO's enquiry, the Administration said that according to legal advice, the proposed legislative amendments to tighten the exemption arrangement to address the issue of acquisition of multiple residential properties under a single instrument would likely be considered by the LegCo President as outside the scope of the current Bill, which only dealt</p>	

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		<p>with the introduction of NRSD as provided for in its long title. As such, the Administration had to introduce a new bill instead of proposing CSAs to the current Bill to give effect to the tightened exemption arrangement.</p> <p>Mr James TO disagreed. He considered that the relevant legislative amendments should be introduced by way of CSAs to the current Bill. He added that the long title of the Bill could be revised to accommodate the proposed legislative amendments to give effect to the tightened exemption arrangement, and there were relevant precedent cases.</p> <p>Mr Abraham SHEK agreed with the Administration that the long title of the Bill could not be revised and that a new bill should be introduced to give effect to the tightened exemption arrangement.</p>	
015733 – 020022	Chairman Administration	<p>The Chairman informed members that the Administration would introduce a new bill to LegCo to give effect to the tightened exemption arrangement provided for HKPR-buyers under the existing NRSD regime in order to address the issue of acquisition of multiple residential properties under a single instrument.</p> <p>Meeting arrangement.</p>	