

立法會
Legislative Council

LC Paper No. CB(1)960/17-18
(These minutes have been seen
by the Administration)

Ref : CB1/BC/1/16

**Bills Committee on Stamp Duty (Amendment) Bill 2017
and Stamp Duty (Amendment) (No. 2) Bill 2017**

**Minutes of meeting
on Tuesday, 6 March 2018, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

- Members present** : Hon WONG Ting-kwong, GBS, JP (Chairman)
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung, JP
Hon Alvin YEUNG
Hon Holden CHOW Ho-ding
Hon Wilson OR Chong-shing, MH
- Members absent** : Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WU Chi-wai, MH
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP
- Public officers attending** : Agenda Item I
Transport and Housing Bureau
Ms Esther LEUNG
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 3

Mr HONG Wai-kuen
Acting Chief Assessor (Stamp Office)

Department of Justice

Miss Wendy HO
Government Counsel

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

Staff in attendance: Mr Kelvin LEE
Senior Assistant Legal Adviser 3

Ms Connie HO
Senior Council Secretary (1)3

Miss Zoe YIP
Clerical Assistant (1)3

I. Meeting with the Administration

Follow-up to issues arising from previous meeting

(LC Paper No. CB(1)539/17-18(01) -- Hon Dennis KWOK's written questions tabled at the meeting on 29 January 2018

LC Paper No. CB(1)641/17-18(01) -- List of follow-up actions arising from the discussion at the meeting on 29 January 2018

LC Paper No. CB(1)641/17-18(02) -- Administration's responses to Hon Dennis KWOK's written questions tabled and issues raised by members at the meeting on 29 January 2018

Draft amendments to the Stamp Duty (Amendment) (No. 2) Bill 2017

LC Paper No. CB(1)594/17-18(01) -- Draft amendments proposed by Hon James TO Kun-sun

LC Paper No. CB(1)641/17-18(03) -- Administration's responses to the draft amendments proposed by Hon James TO Kun-sun

LC Paper No. CB(1)662/17-18(01) -- Draft amendments proposed by the Administration

LC Paper No. CB(1)664/17-18(01) -- Mark-up version of the draft amendments proposed by the Administration
(tabled at the meeting and subsequently issued on 6 March 2018)

Relevant papers

LC Paper No. CB(3)609/16-17 -- The Bill

LC Paper No. CB(1)1162/16-17(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. LS73/16-17 -- Legal Service Division Report
- 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")

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

2. The Chairman drew members' attention to Rule 83A of the Rules of Procedure which provided that members should not speak on a matter in which they had a direct or indirect pecuniary interest, except where they disclosed the nature of that interest. The Chairman also reminded members that for those members who had disclosed the nature of their pecuniary interest relating to the subject of the Bill at the previous Bills Committee meetings, they should disclose the same interest at each of the subsequent meetings before they spoke.

Administration response to issues raised at the last meeting

3. Members noted the Administration's response to issues raised at the last meeting of the Bills Committee held on 29 January 2018 and Hon Dennis KWOK's written questions in relation to the Stamp Duty (Amendment) (No. 2) Bill 2017 ("the No. 2 Bill") tabled at the meeting (LC Paper No. CB(1)641/17-18(02)).

Follow-up actions to be taken by the Administration

4. The Administration was requested to –
- (a) reconsider Mr James TO's suggested amendment to Clause 3(1) of the No. 2 Bill in respect of the proposed definition of "single residential property" under section 29A(1) of the Stamp Duty Ordinance (Cap. 117) to include, as one of the examples, a unit and an exterior wall (or any part of an exterior wall) of the same building, irrespective of whether the external wall was or was not allocated with undivided shares; and
 - (b) consider Mr James TO's suggestion of including a unit and an adjacent flat roof as one of the examples of "single residential

property" under Clause 3(1) of the No. 2 Bill.

(Post-meeting note : The Administration's response was issued to members vide LC Paper No. CB(1)683/17-18(02) on 13 March 2018.)

Proposed amendments to the No. 2 Bill

5. The Bills Committee noted the Administration's response (LC Paper No. CB(1)641/17-18(03)) to Mr James TO's draft amendments (LC Paper No. CB(1)594/17-18(01)).

6. The Bills Committee raised no objection to the draft amendments proposed by the Administration (LC Paper No. CB(1)662/17-18(01)).

(Post-meeting note : Having considered members' views expressed at the meeting on 6 March 2018, the Administration had subsequently submitted the revised draft amendments to the Bills Committee for consideration, which was issued to members vide LC Paper No. CB(1)683/17-18(02) on 13 March 2018. Members raised no further comments on the revised draft amendments.)

Legislative timetable

7. The Bills Committee completed the scrutiny of the No.2 Bill and raised no objection to the Administration's intention to resume the debate on the Second Reading of the No. 2 Bill at the Council meeting of 11 April 2018. The Chairman informed members that the Bills Committee would make an oral report to the House Committee at its meeting on 16 March 2018. He also reminded members that the deadline for giving notice to move amendments to the No. 2 Bill was 28 March 2018.

8. The Bills Committee noted Mr James TO's intention to move amendments to the No.2 Bill. The Bills Committee would not propose any amendment to the No. 2 Bill.

II. Any other business

9. There being no other business, the meeting ended at 11:51 am.

**Proceedings of the meeting of
the Bills Committee on Stamp Duty (Amendment) Bill 2017
and Stamp Duty (Amendment) (No. 2) Bill 2017
on Tuesday 6 March 2018, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000000 – 000756	Chairman Senior Assistant Legal Adviser 3	Opening remarks. The Chairman reminded members of the requirements under Rule 83A of the Rules of Procedure, which provided that members should not speak on a matter in which they had a direct or indirect pecuniary interest, except where they disclosed the nature of that interest. Senior Assistant Legal Adviser 3 advised that he had no comments on the English text of the Stamp Duty (Amendment) (No. 2) Bill 2017 ("the No.2 Bill").	
000757 – 002224	Chairman Mr James TO Administration	Briefing by Mr James TO on his proposed draft amendments to the No.2 Bill (LC Paper No. CB(1)594/17-18(01)).	
002225 – 003446	Chairman Administration	The Administration briefed members on its responses to the following – (a) issues raised by members at the meeting held on 29 January 2018 and the written questions raised by Mr Dennis KWOK tabled at the said meeting (LC Paper No. CB(1)641/17-18(02)); and (b) draft amendments to the No.2 Bill proposed by Mr James TO (LC Paper No. CB(1)641/17-18(03)).	
003447 – 003744	Chairman Administration	Briefing by the Administration on its proposed draft amendments to the No.2 Bill (LC Paper No. CB(1)662/17-18(01)). Members raised no objection to the draft amendments proposed by the Administration.	
003745 – 004512	Chairman Mr James TO Mr Holden CHOW Administration	Discussion on Mr James TO's suggestion of including a unit and an adjacent flat roof as one of the examples of "single residential property" under Clause 3(1) of the No.2 Bill. The Administration was requested to consider	See LC Paper No. CB(1)683/17-18(02).

Time marker	Speaker	Subject(s)	Action required
		the aforesaid suggestion of Mr James TO.	
004513 – 005417	Chairman Mr James TO Administration	<p>Mr James TO's elaboration on the justifications for his proposed amendment to include a unit and an exterior wall (or any part of an exterior wall) of the same building as one of the examples of "single residential property" under Clause 3(1) of the No. 2 Bill.</p> <p>The Administration considered Mr TO's amendment not necessary. For cases involving the purchase of a unit and an exterior wall, which were not very common, the Inland Revenue Department ("IRD") could determine whether the properties concerned constituted a "single residential property" in accordance with the mechanism prescribed under Clause 3(2) of the No. 2 Bill by taking into account various documents and all relevant facts and circumstances at the time of transaction of each individual case.</p>	
005418 – 005723	Chairman Mr Abraham SHEK Administration	<p>In response to Mr Abraham SHEK's enquiry, the Administration elaborated on the current exemption arrangement provided for under the Stamp Duty Ordinance (Cap. 117) in respect of the acquisition of a residential property and a car parking space at the same time, and explained the rationale for not relaxing the relevant exemption arrangement to cover a unit and two car parking spaces as suggested by Mr James TO.</p> <p>The Administration reiterated that under the standing principle of the IRD, an instrument which covered a unit and two car parking spaces could be taken as an instrument for acquisition of a residential property as a whole if the unit and the car parking spaces concerned were inseparable for trade. The instrument would be subject to the lower ad valorem stamp duty ("AVD") rates at Scale 2 if the conditions of charging AVD at Scale 2 rates set out in the Stamp Duty Ordinance were fulfilled.</p>	
005724 – 010716	Chairman Mr Holden CHOW Mr James TO Administration	The Administration's response to Mr Holden CHOW's enquiry on the applicable AVD rates chargeable on an instrument which covered a unit and an exterior wall (or any part of an exterior wall) of the same building (i.e. a residential property and a non-residential property) where the latter was allocated with undivided shares.	See LC Paper No. CB(1) 683/17-18(02).

Time marker	Speaker	Subject(s)	Action required
		<p>Mr James TO reiterated his concern that the current arrangement for not regarding a unit and an exterior wall (or any part of an exterior wall) as "single residential property" under the No. 2 Bill might give rise to management problems of some old residential buildings in the future.</p> <p>The Administration was requested to re-consider Mr James TO's proposal to include a unit and an exterior wall (or any part of an exterior wall) of the same building as one of the examples of "single residential property" under Clause 3(1) of the No. 2 Bill.</p>	
010717 – 011008	Chairman Administration	<p>Mr James TO indicated his intention to move amendments to the No. 2 Bill.</p> <p>The Chairman concluded that the Bills Committee had completed scrutiny of the No. 2 Bill and that no further meeting of the Committee would be held.</p> <p>Legislative timetable.</p>	