

立法會
Legislative Council

LC Paper No. CB(1)1359/18-19
(These minutes have been seen
by the Administration)

Ref : CB1/PL/HG/1

Panel on Housing

Minutes of meeting
held on Monday, 3 June 2019, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon Wilson OR Chong-shing, MH (Chairman)
Hon Andrew WAN Siu-kin (Deputy Chairman)
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon WU Chi-wai, MH
Hon CHAN Chi-chuen
Hon CHAN Han-pan, BBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon SHIU Ka-fai
Hon YUNG Hoi-yan
Hon CHEUNG Kwok-kwan, JP
Hon LAU Kwok-fan, MH

Dr Hon CHENG Chung-tai
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon AU Nok-hin
Hon Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS
Hon CHAN Hoi-yan

Members absent : Hon Abraham SHEK Lai-him, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon KWOK Wai-keung, JP
Hon SHIU Ka-chun
Hon KWONG Chun-yu

Public Officers attending : Agenda Item IV

Ms Connie YEUNG
Deputy Director of Housing (Development & Construction)

Mr Michael HONG
Chief Civil Engineer (Public Works Programme)
Housing Department

Ms Ann Mary TAM
Chief Architect (2)
Housing Department

Mr Peter MOK
Deputy Head of Civil Engineering Office
(Project & Environmental Management)
Civil Engineering and Development Department

Mr LEUNG Chi-foon
Chief Engineer/Special Duties (Works)
Civil Engineering and Development Department

Agenda Item V

Mr Frank CHAN, JP
Secretary for Transport and Housing

Mrs Alice CHEUNG, JP
Deputy Secretary for Transport and Housing (Housing)

Ms Jenny CHAN
Principal Assistant Secretary for Transport and Housing
(Housing) (Policy Support)

Ms Josephine SHU
Assistant Director of Housing (Estate Management) 2

Clerk in attendance : Mr Derek LO
Chief Council Secretary (1)5

Staff in attendance : Ms Anki NG
Council Secretary (1)5

Ms Michelle NIEN
Legislative Assistant (1)5

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I. Confirmation of minutes

(LC Paper No. CB(1)1112/18-19 — Minutes of the meeting held
on 7 January 2019)

The minutes of the meeting held on 7 January 2019 were confirmed.

II. Information papers issued since last meeting

2. Members noted that the following papers had been issued since the last meeting –

LC Paper No. CB(1)1039/18-19(01) — Referral memorandum from
the Public Complaints
Office on policy issues
relating to increasing the
supply of subsidized hostel
places and building
transitional housing for the

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homeless (Chinese version only) (Restricted to members)

LC Paper No. CB(1)1040/18-19(01) — Land Registry Statistics for April 2019 provided by the Administration (press release)

LC Paper No. CB(1)1103/18-19(01) — Administration's response to the letter dated 4 April 2019 from Hon KWOK Wai-keung regarding the role of the Hong Kong Housing Authority in the management and maintenance of Tenants Purchase Scheme Estates (LC Paper No. CB(1)853/18-19(01))

III. Items for discussion at the next meeting

(LC Paper No. CB(1)1104/18-19(01) — List of follow-up actions

LC Paper No. CB(1)1104/18-19(02) — List of outstanding items for discussion)

3. Members agreed to discuss the following items at the next regular meeting scheduled for Tuesday, 9 July 2019, at 4:30 pm –

- (a) Head 711 project no. B795CL — Site formation and infrastructure works for public housing developments at Pok Fu Lam South; and
- (b) Proposed funding scheme to support transitional housing projects by non-government organizations.

(Post-meeting note: The notice of meeting on 9 July 2019 was issued to members vide LC Paper No. CB(1)1143/18-19 on 4 June 2019. The meeting was not held. Members were informed on 2 July 2019 of the Chairman's decision to cancel the meeting due to safety and security reasons.)

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IV. Head 711 project no. B812CL — Site formation and infrastructure works for public housing developments at Pik Wan Road, Yau Tong

(LC Paper No. CB(1)1104/18-19(03) — Administration's paper on Public Works Programme Item No. B812CL – Site formation and infrastructure works for public housing developments at Pik Wan Road, Yau Tong)

4. Members noted a submission dated 31 May 2019 from Kwun Tong District Councilors and community officers regarding the agenda item ("the submission"), which was received by the Secretariat on 3 June 2019 and tabled at the meeting.

5. With the aid of PowerPoint, Deputy Director of Housing (Development and Construction) ("DDH(D&C)") briefed members on the Administration's proposal to upgrade Public Works Programme ("PWP") item no. B812CL to Category A to carry out site formation and infrastructure works for public housing developments at Pik Wan Road, Yau Tong ("the public housing developments"), details of which were set out in the Administration's paper (LC Paper No. CB(1)1104/18-19(03)).

(Post-meeting note: Presentation materials (LC Paper No. CB(1)1142/18-19(01)) for the item were issued to members on 4 June 2019 in electronic form.)

6. The Chairman reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP") of the Legislative Council ("LegCo"), they should disclose the nature of any direct or indirect pecuniary interests relating to the subjects under discussion at the meeting before they spoke on the subjects. He further drew members' attention to Rule 84 of the RoP on voting in case of direct pecuniary interest.

Use of the project site

7. Noting that the proposed project site comprised two separate sites, namely Site A and Site B, Ms YUNG Hoi-yan asked whether one of the sites would provide public housing and the other one would provide ancillary facilities, and why there was no footbridge or underpass for pedestrians to

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connect the two sites. DDH(D&C) replied that the Hong Kong Housing Authority ("HA") would provide public housing at the two sites. As Ko Chiu Road substation and Yau Tong Fresh Water Service Reservoir were located between the two sites, it was not practicable to construct a footbridge or an underpass connecting the two sites. The Chairman suggested that the Administration should ensure that the Yau Tong Service Reservoir Playground would continue to be open for public use and should improve the facilities of the playground, including adding toilet facilities. DDH(D&C) undertook to relay the suggestions to relevant government departments for consideration.

8. Mr WU Chi-wai opined that the project site was located on slopes, and enquired how the Administration would provide more formed land at the site in order to maximize the use of the site for providing facilities, such as parking spaces. DDH(D&C) replied that the site formation method to be adopted would ensure minimal environmental impact and prudent use of public fund. Land platforms at different levels would be provided at the site.

Admin Mr WU requested the Administration to provide details and estimated cost breakdown of the proposed site formation and infrastructure works.

9. Mr Andrew WAN, Mr LEUNG Yiu-chung and Mr Tony TSE were concerned about the provision of adequate supporting infrastructure/facilities to tie in with the public housing developments. Mr WAN and Mr LEUNG opined that the Administration/HA should consider enhancement of the project proposal taking into account the local community's concern about the provision of transport and other ancillary facilities to meet the demand, instead of adding the facilities only after the population intake. Mr TSE opined that to facilitate members' consideration of the proposal, the Administration should provide detailed information about the development layout of the project site and how the developments/facilities at the site would integrate with those on its periphery. He requested the Administration to provide details, with plans/drawings as appropriate, of foundation and superstructure works and locations of the public housing developments, including the number of blocks to be built, their height, orientation and disposition, and carparking facilities, etc., and the planning and development of the peripheral areas and roads of the public housing developments.

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Public housing developments

10. Mr LAU Kwok-fan asked whether the public housing developments would provide sale flats. DDH(D&C) replied that the proposed project had been designed based on the assumption that subsidized sale flats ("SSFs") would be provided at the proposed site. Nevertheless, HA would ensure that

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the design of public housing developments would allow for interchangeability between public rental housing ("PRH") and SSF. In response to Mr LAU's enquiry on whether the Administration, but not the future SSF owners, would shoulder the maintenance responsibilities for the retaining structures and slopes to be constructed under the proposed project, DDH(D&C) advised that if SSFs would be provided in the public housing developments, the SSF owners would be responsible for the maintenance of the retaining structures and slopes. In designing the proposed works, the Administration would minimize facilities that required future maintenance as far as practicable. Mr LAU opined that the Administration/HA should consider whether it was more appropriate to provide PRH at the site, taking into account the expenditure involved in the maintenance of the relevant facilities. He requested the Administration to provide supplementary information on the estimated cost of the maintenance and repair work of the retaining structures and slopes.

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Project cost and implementation

11. Mr Gary FAN said that in recent years, when consulting district councils ("DCs") on public works projects, the Administration's proposals were often without cost estimates. He asked about the cost breakdown of the five items of the proposed works (i.e. items (a) to (e) in paragraph 2 of LC Paper No. CB(1)1104/18-19(03)), and the respective proportions of the estimated cost of the proposed two footbridges, retaining structures and slopes. DDH(D&C) replied that the estimated capital cost of the proposed works was \$1,823.3 million, and of which, about half was the capital cost of the site formation works which included the construction of retaining structures and slopes. The cost of constructing the proposed pedestrian walkway systems including a footpath, two footbridges, and three lift towers was not the largest portion of the project cost. The Administration would provide the cost breakdown of the proposed works in due course.

12. Mr Gary FAN asked whether the Administration would entrust the proposed site formation works to HA. DDH(D&C) replied that the proposed works would be undertaken by the Civil Engineering and Development Department ("CEDD") and would not be entrusted to HA. Deputy Head of Civil Engineering Office (Project & Environmental Management), Civil Engineering and Development Department ("DH(P&EM), CEDD") explained that the proposed building foundation works could not be undertaken in parallel with the site formation works given the characteristics of the project site and the estimated construction period. Hence, entrusting the proposed site formation works to HA could not help shorten the proposed project's implementation programme.

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Pedestrian facilities

13. Mr LAU Kwok-fan sought clarification on whether the Administration had taken forward the suggestion in the motion passed by the Housing Committee ("HC") of the Kwun Tong DC ("KTDC") about construction of two footbridges with lifts connecting to Lei Yue Mun Road and spanning across Ko Chiu Road in order to facilitate residents' access to government clinics and major public transport systems. Mr Andrew WAN opined that the Administration should consider further extending the network of the footbridges under the proposed project, taking into account the local community's views. Ms YUNG Hoi-yan asked whether the footbridges would provide landing points at both sides of Lei Yue Mun Road.

14. DDH(D&C) replied that the proposed project included the construction of two pedestrian walking systems, each with covered footbridge(s) and lift tower(s) linking to the eastern side of Lei Yue Mun Road. It was not practicable to connect the proposed footbridges to the western side of Lei Yue Mun Road, given that its pedestrian pavement was too narrow for providing a landing point. To cater for the pedestrian flow across Lei Yue Mun Road in future, the Administration would add a new signalized pedestrian crossing under the proposed project, so that there would be two pedestrian crossings on the road. HC of KTDC had in principle agreed to the alignments of the two proposed footbridges, and had expressed other views on the proposed works for the Administration's reference, including those set out in their submission.

15. Mr WU Chi-wai opined that at least one of the two footbridges should span across Lei Yue Mun Road and connect to the western side of the road. He suggested that the Administration should consider widening part of the public walkway concerned for providing the landing point, such as by cutting of slopes. Ms YUNG Hoi-yan asked about the feasibility of providing an underground access to facilitate users of the proposed footbridges to access the nearby MTR station. Mr HO Kai-ming reiterated a suggestion of extending a footbridge under the proposed project to link with the western side of Lei Yue Mun Road in order to provide a grade-separated pedestrian crossing over the road. In response to Mr HO's concern about the possible impact of the proposed project on pedestrians who might access Yau Tong MTR Station through the car park of Yau Mei Court and a fire escape exit, DDH(D&C) advised that the Administration would continue to communicate with the relevant owners' incorporation in order to follow up the concern raised by Mr HO.

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16. Dr Fernando CHEUNG enquired how the footbridges and other pedestrian facilities provided under the proposed project would cater for the mobility need of elderly persons or persons with impaired mobility. DDH(D&C) replied that the Administration would adopt a barrier-free design approach for the project. Members of the public might use the proposed footbridges and lifts to travel between the public housing developments and Lei Yue Mun Road, and they might use the two at-grade pedestrian crossings to cross Lei Yue Mun Road in order to reach Yau Tong MTR Station.

17. Mr HO Kai-ming enquired about the number of lifts to be provided for the proposed footbridges. He and Dr Fernando CHEUNG asked about the lifts' carrying capacity. DDH(D&C) replied that the Administration would provide three lift towers for the two pedestrian walkway systems. In each lift tower, two lifts would be provided. DH(P&EM), CEDD replied that as there would be more pedestrians at Site A than at Site B, the lifts provided for the pedestrian walking system connecting to Site A would each have a carrying capacity of about 30 persons. As regards the footbridge which would mainly cater for the pedestrians from/to Site B, the lifts provided for it would each have a carrying capacity of about 12 persons and the Administration would further review whether lifts of larger carrying capacity should be provided.

18. In response to Dr Fernando CHEUNG's enquiry on whether the proposed lifts could accommodate at least two wheelchairs and their users, DH(P&EM), CEDD replied in the affirmative. Mr HO Kai-ming suggested that the Administration should consider constructing lifts for the subway near Kwong Tin Estate and Hong Pak Court in order to ensure members of the public with a safe and convenient access to Kwong Tin Estate Bus Terminus. DDH(D&C) replied that the Administration had studied Mr HO's suggestion, and considered it technically infeasible to take forward.

19. Mr WU Chi-wai opined that apart from the public housing developments, residents of various estates near the project site might wish to use the proposed pedestrian walkway system in future. He asked about the management and maintenance responsibilities of it. The Chairman was concerned that section of the walkway system would not be provided with a cover. He asked whether residents of nearby estates, such as Kwong Tin Estate, Hong Pak Court, etc., would not be allowed to use the walkway system. DDH(D&C) replied that the proposed pedestrian walkway system would not be provided inside the public housing development at Site A and would be open for public use.

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Vehicular parking spaces

20. In view that the supply of parking spaces was currently tight in the vicinity of the project site and the public housing developments would provide about 3 120 flats, Mr WU Chi-wai enquired about the provision of parking spaces at the site, taking into account the principle of "single site, multiple use" principle. The Chairman raised similar enquiry. DDH(D&C) replied that in view of the local parking demand, the Administration/HA would increase the parking spaces to the upper end of the standards stipulated in the the Hong Kong Planning Standards and Guidelines ("HKPSG") when planning the public housing developments. On the premise of not affecting the delivery of the public housing project and the total number of public housing units to be provided, the Administration/HA would continue to consider the feasibility of providing more parking spaces.

21. Mr HO Kai-ming and the Chairman expressed concerns on whether and how the proposed project would help address the illegal parking problem in the nearby areas of the project site, such as Pik Wan Road and Lei Yue Mun Road. Mr Andrew WAN and Mr LEUNG Yiu-chung opined that there was often a shortage of parking spaces in newly completed public housing estates after the intake of residents because the parking spaces provided according to the HKPSG's standards might not be adequate to cope with the demand. Mr WAN enquired about the special measures to address the shortfall of parking spaces in meeting the society's demand and when the Administration would review the relevant HKPSG's standard. DDH(D&C) replied that the Transport Department ("TD") was reviewing the planning standard for car parking spaces, and HA would keep in view the progress of the review when planning the public housing developments.

22. Mr LEUNG Yiu-chung opined that instead of merely following the relevant standard set out by TD, HA should provide parking spaces in its public housing developments according to the actual need. DDH(D&C) replied that in planning the provision of parking spaces in its projects, HA would need to make reference to the HKPSG's standards and take into account the TD's advice, the relevant DC's views and the project site's constraints, etc. The Chairman said that the Administration should take note of Mr LEUNG's view. He opined that in planning the parking facilities at the project site, the Administration/HA should take into account the demand for parking spaces of private cars as well as commercial vehicles.

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23. Mr Jeremy TAM enquired how the Administration would address the impact of the project on the Buddhist Ho Nam Kam College which was using a temporary car park in the area affected by the proposed project. The Chairman raised similar question. He and Mr TAM opined that it might not be practicable for the affected school to use the nearby residential developments' car parks. DDH(D&C) replied that as the public housing developments might provide SSFs, to avoid imposing heavy burden on SSF owners for maintaining public facilities in future, the Administration would not provide a public car park at the project site.

Impact on trees

24. Dr Fernando CHEUNG asked about the impact of the proposed project on the existing trees. Chief Engineer/Special Duties (Works), Civil Engineering and Development Department ("CE/SD(W), CEDD") replied that according to the relevant tree survey and impact assessment, about 1 200 trees would be affected. These affected trees were common species in Hong Kong, such as exotic Acacia, and did not include any tree in the Register of Old and Valuable Trees. In response to Dr CHEUNG's enquiry about the compensatory tree planting plan, CE/SD(W), CEDD advised that the Administration proposed to provide compensatory trees at or near the project site as far as practicable, such as on the slopes near the proposed pedestrian walkway systems and at the Lei Yue Mun Road Playground. The relevant proposal had been submitted to the Lands Department ("LandsD") for consideration.

General out-patient clinic

25. Mr HO Kai-ming and the Chairman asked about the services to be provided by the proposed general out-patient clinic. DDH(D&C) replied that matters relating to the services of the clinic were under the purview of the Hospital Authority. The target users of the clinic mainly included elderly people, low-income groups and persons with long-term illness. The Chairman said that to facilitate members to discuss with the Administration a PWP project proposal at a meeting, such as the proposed one which involved matters under the purview of the Food and Health Bureau, the Administration should invite representatives of all relevant bureaux/departments to attend the meeting. Dr Fernando CHEUNG requested the Administration to provide details of measures to ensure that there would be sufficient medical staff to provide services at the general out-patient clinic and the proposed child assessment centre on completion of the proposed project.

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26. In view that the vehicular entrance/exit of the proposed general out-patient clinic at Ko Chiu Path was located close to schools, such as the H.K.T.A.Y.Y.I. Chan Lui Chung Tak Memorial School, Mr Jeremy TAM and the Chairman enquired how the Administration would address the concern about students' safety after the commissioning of the clinic. DDH(D&C) replied that the Administration would consider restricting the access of the vehicular entrance/exit at Ko Chiu Path to emergency vehicles and vehicles for specific operational purpose and providing the entrance/exit of the clinic's car park at a suitable location other than Ko Chiu Path.

Local community's views on the proposed project

27. The Chairman opined that the Administration should pay heed to the views and criticisms raised by KTDC's HC and the local communities regarding the proposed works and review the project proposal in light of their concerns. Mr LAU Kwok-fan opined that the Administration should secure the relevant DC's support for a PWP project before submitting the project proposal to LegCo for consideration. Mr Jeremy TAM asked about the Administration's response to the submission. DDH(D&C) replied that the Administration had received a letter from KTDC's HC setting out its concerns about the proposed works, similar to the views set out in the submission, and had provided a response to the letter. She undertook to provide a written response to the submission.

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(Post-meeting note: The submission was issued to members vide LC Paper No. CB(1)1141/18-19(01) on 4 June 2019, and to the Administration by e-mail.)

Concluding remarks

28. Concluding the discussion, the Chairman said that members supported the submission of the proposal to the Public Works Subcommittee for consideration.

V. Regulation of Commercial Facilities in Public and Subsidized Housing (Legislative Provisions) Bill

(LC Paper No. CB(1)963/18-19(01) — Joint letter from Hon Mrs Regina IP LAU Suk-ye and Hon Alice MAK Mei-kuen dated 16 April 2019 on the Regulation of

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Commercial Facilities in
Public and Subsidized
Housing (Legislative
Provisions) Bill

LC Paper No. CB(1)1104/18-19(04) — Administration's paper on preliminary views of the Government on Legislating for the Regulation of Facilities Divested by the Hong Kong Housing Authority

LC Paper No. CB(1)561/18-19(01) — Letter from Hon Mrs Regina IP LAU Suk-yea regarding her proposed Member's Bill to amend the Housing Ordinance (Cap. 283) and Inland Revenue Ordinance (Cap. 112))

29. Members noted a letter dated 31 May 2019 from Mr SHIU Ka-chun regarding LC Paper No. CB(1)1104/18-19(04), which was tabled at the meeting.

(Post-meeting note: Mr SHIU Ka-chun's letter was issued to members vide LC Paper No. CB(1)1141/18-19(02) on 4 June 2019. On the instruction of the Chairman, the Clerk has requested the Administration to provide written response to the letter. The Administration's response to the letter was issued to members vide LC Paper No. CB(1)1344/18-19(01) on 4 September 2019.)

[At 3:55 pm, the Chairman said that he would extend the meeting for 15 minutes to 4:45 pm to allow sufficient time for discussion of the item.]

30. At the invitation of the Chairman, Mrs Regina IP briefed members on the Regulation of Commercial Facilities in Public and Subsidized Housing (Legislative Provisions) Bill, which she and Ms Alice MAK intended to introduce as a Members' Bill into LegCo. Mrs IP said that the measures in the Bill included the introduction of a mechanism for regulating the rate of rent increase including a rent adjustment formula, the right of first refusal to renew existing lease and vacancy tax, etc. ("the proposed measures") for regulating certain properties which were divested by HA in 2005 ("divested

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properties") and within the land lots specified under Schedule 2 to the Bill. Secretary for Transport and Housing ("STH") explained the Government's preliminary views on the proposals in the Bill, details of which were set out in LC Paper No. CB(1)1104/18-19(04) ("the Administration's paper").

Government's response to the proposals in the Bill

31. Ms Alice MAK opined that the Administration's paper had merely relayed the views of other organizations such as the Competition Commission ("CC") on the proposed measures without making clear its position of not supporting the Bill. Ms YUNG Hoi-yan said that the proposed measures sought to deal with various problems in divested properties, including the vacancy situation, the limited variety of goods and services offered in divested shopping arcades/markets, etc. The two Members proposed the Bill because the Administration had not taken effective measures to address such problems. The Administration should study how to assist in the implementation of the proposed measures. Mr CHAN Chi-chuen opined that the Government's response to the Bill had demonstrated its unwillingness to assist in the implementation of the proposed measures. Mr LAU Kwok-fan expressed a similar view. Mr AU Nok-hin opined that the Administration should not disregard the difficulties faced by the residents adversely affected by Link Real Estate Investment Trust ("Link")'s disposal of its divested properties in public housing estates. He urged the Administration to support the implementation of the Bill or work out more effective measures to regulate such properties.

32. STH replied that the Government appreciated Mrs Regina IP and Ms Alice MAK for putting forward the Bill with a view to addressing certain issues that the community had an on-going concern. The Administration had set out its preliminary views on the Bill. Based on its analysis from the legal and policy perspectives and taking into account the relevant provisions of the Basic Law, the Administration considered that there was insufficient basis to support the proposed measures and the Bill.

Implications on free market system and competition

33. The Panel noted that as the Bill had stipulated that the proposed measures should be applicable to only some properties in Hong Kong, i.e. the 147 divested properties in Schedule 2 to the Bill, the Administration had queries as to whether such measures might contravene the principle of free and fair competition. Mr AU Nok-hin opined that the Administration might not change its position on the Bill even if the proposed measures were made applicable to all other properties in Hong Kong. Citing as an example the

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motion passed at the Council meeting of 3 April 2019 which proposed to amend the Code on Real Estate Investment Trusts to stop real estate investment trusts ("REITs") in Hong Kong including Link from engaging in real estate development, Mr AU commented that the Administration did not seem to have accepted or acted on the proposal. Mr CHAN Chi-chuen said that perfect market and full competition did not exist. He referred to the Administration's view that the proposed measures might trigger legal challenges by the divested property owners concerned, and considered this should not be a matter of concern as the Government would most likely win in such judicial cases.

34. Ms YUNG Hoi-yan, Ms Alice MAK and Mr LEUNG Che-cheung questioned whether free and fair competition existed in divested properties. Ms YUNG reiterated the concern that the operation mode of divested properties might contravene the Second Conduct Rule under the Competition Ordinance (Cap. 619), and said that as indicated in the Administration's paper, CC had not drawn a conclusion that there was no monopoly situation in divested retail facilities. Mrs Regina IP expressed the same view. Ms Alice MAK questioned why the Administration did not seek CC's advice on whether there was monopoly in a divested market where the stalls for selling fresh meat and vegetables were operated by one single operator.

Vacancy tax

35. Mr CHAN Chi-chuen referred to the explanation in the Administration's paper about the impact of the proposed vacancy tax on public expenditure, and considered that this could not constitute a valid reason for not supporting the Bill. Dr CHENG Chung-tai asked whether the Transport and Housing Bureau ("THB") had liaised with the relevant bureau to explore the feasibility of implementing the proposed vacancy tax without incurring additional public expenditure. Mrs Regina IP said that the Administration's proposal to introduce tax on vacant first-hand private flats and its various stamp duty measures to address the overheated property market could be perceived as market intervention, and did not subscribe to the Administration's view about the implications of the proposed measures such as vacancy tax on free market system.

36. STH replied that the views in the Administration's paper had been set out after consulting relevant government departments/organizations, including the Financial Services and the Treasury Bureau, the Commerce and Economic Development Bureau, Department of Justice, the Office of the Government Economist and CC. As explained in the Administration's paper, if the Government was to introduce a new vacancy tax, it would need to set

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up a new regime for assessing and levying the tax concerned, as well as for preventing and taking action against tax evasion, which would incur additional expenses. When introducing any measures for imposing restrictions on private property rights, the Government must strike a balance between the public benefits of such measures and the protection of private property rights, and give careful considerations to the factors of suitability, necessity and proportionality. Mr CHAN Chi-chuen opined that the Administration had not conducted an assessment on whether the relevant measures in the Bill satisfied the proportionality test under Articles 6 and 105 of the Basic Law, and this reflected the Administration's unwillingness to consider the implementation of the Bill.

Mechanism for regulating the rate of rent increase

37. Mr AU Nok-hin did not subscribe to the Administration's view about the possible consequences of implementing the proposed tenancy control in the Bill to regulate the rate of rent increase in the divested properties concerned, such as causing such property owners to charge tenants a large fee on miscellaneous expenses. He opined that the Administration might put in place measures to prevent these owners from charging such fees. Ms Alice MAK referred to the concern mentioned in the Administration's paper that the Bill's proposal to delegate to HA the responsibility to implement tenancy control on divested properties might have serious implications on HA's role and operations. She opined that there would be no such implications if the Administration was willing to work out and implement a proposal on its own to achieve the same objective of the proposed tenancy control measure.

38. STH replied that having considered CC's views, the Administration was of the view that the introduction of tenancy control should not be lightly considered unless the market power of a certain owner or retailer could not be restrained in the course of normal market competition. Mrs Regina IP opined that it was not appropriate for the Administration to consider whether to support tenancy control or the proposed mechanism for regulating the rate of rent increase in the divested properties concerned merely based on the CC's views. She considered that putting in place the proposed measure would not lead to a reduction of the current supply of shop premises in such divested properties, but would help maintain their rents at reasonable levels.

Right of first refusal to renew existing lease

39. Mrs Regina IP said that the proposed right of first refusal to renew existing lease would help enhance the bargaining power of retail tenants of the divested properties concerned. Mr Jeremy TAM opined that HA should also offer such right to tenants of the shop premises in HA's properties.

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40. STH replied that according to the established practice, the Housing Department would request a retail tenant to indicate his/her intention to renew the tenancy about nine months before the expiry of the tenancy. If the retail tenant had not breached any term in the tenancy agreement during the tenancy, the tenant would, under normal circumstances, be invited to renew the tenancy. He advised that under such arrangement, some small retail operators in HA's markets had been operating for more than a decade. Noting that HA had included in its tender documents a reminder that "the tenancy offered will be for a fixed term of three years with no option to renew", Mr TAM suggested that HA should state clearly the established practice notwithstanding the legal position as mentioned by STH in its tender invitation documents to facilitate prospective tenderers' consideration on whether to bid for renting shops/stalls. STH replied that HA/the Administration would consider how to address Mr TAM's suggestion, taking into account the need to strike a balance between the right of retail tenants and HA's need to maintain flexibility.

Provision of facilities in public housing developments

41. Mrs Regina IP opined that the Government had, prior to reunification in 1997, undertaken to provide ancillary facilities for public housing residents, which should include not only amenities, but also retail and other community facilities. She urged the Administration/HA to take appropriate actions to ensure the reasonable provision of amenities and facilities within divested properties for meeting residents' need. She further said that according to the ruling of the Court of Final Appeal in 2005, section 4(1) of the Housing Ordinance (Cap. 283) required HA to secure the provision of housing and such amenities ancillary thereto, even though they were not provided by HA but by a third party. STH replied that HA would continue to secure the provision of the amenities/facilities ancillary to housing in its estates in accordance with the relevant legislative provisions.

Administration's measures to deal with problems in divested properties

42. Noting the Administration's doubts about the effectiveness of the proposed measures and reluctance to support the Bill, Ms Alice MAK queried whether the Administration could work out alternative measures to address the problems in divested properties, such as failure of owners of divested retail facilities in meeting residents' needs of affordable living necessities and in maintaining a fair market environment for small shop operators to run their business. Mr LAU Kwok-fan and Mrs Regina IP raised similar questions. Mr LAU said that he had received many complaints about divested properties, including the vacancy situation, unreasonable rent increases and evictions of

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retail tenants by owners. He asked how the Administration would address such problems. Mrs IP opined that the Administration had not set out effective measures in the Administration's paper to address the problems in divested properties. Open bazaars such as the Tin Sau Bazaar to cater for residents' daily shopping needs were not well received. Mr LEUNG Che-cheung said that as there were no alternative commercial facilities available in the public housing estates concerned to counteract monopoly of divested property owners, these owners might increase the rents in their divested properties arbitrarily.

43. STH replied that the Administration had completed the studies on site selection of new public markets in Tin Shui Wai and Tung Chung, and had consulted relevant DCs on the locations. The Administration was also identifying suitable sites for providing public markets in Tseung Kwan O and Kwu Tung North New Development Area. He advised that the Administration would go full stream ahead on its new public market development projects, and would continue to consider the provision of more new public markets in order to cater for the daily shopping needs of the public, including residents of public housing estates with divested retail facilities. As regards existing public housing estates, if additional facilities could not be provided within the estate, the Administration would study the feasibility of providing public markets or other facilities in the vicinity to cater for residents' need.

44. Ms Alice MAK and Mrs Regina IP said that local communities had criticized the proposed locations of the new public markets in Tung Chung and Tin Shui Wai. Ms MAK opined that in formulating such proposals, the Administration might not have a clear understanding of the impacts of the problems of divested properties on the residents concerned. Mrs IP was concerned about the limited number of stalls accommodated in these markets. Mr HO Kai-ming opined that problems of high vacancy rate, substantial rent increases and limited variety of goods and services were commonly found in divested retail facilities, such as those in Kwong Tin Estate, Hing Tin Estate, Sun Tin Wai Estate and Tin Ma Court. As public housing estates with divested retail facilities were mainly located in developed areas where land supply was limited, the Administration should make good use of available vacant land sites to provide new retail facilities to meet the daily shopping needs of the residents in these estates. He referred to the site for providing public housing developments at Pik Wan Road, Yau Tong discussed earlier at the meeting, and expressed concern that the Administration had no plan to provide any shop premises at the site to help address the daily shopping needs of the residents, including those of the adjacent estates with divested properties, such as Kwong Tin Estate. STH replied that the

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Administration/HA would provide retail facilities in public housing estates or nearby areas as far as practicable subject to space availability.

45. Mrs Regina IP opined that the high rent in divested retail facilities had made it impossible for small shop tenants to survive, and despite working for long hours, many of them could not afford the rent and had been forced to move out from the divested properties concerned. In view that the Government did not support the proposed measures to regulate such properties through legislative means, she questioned whether the Administration would request the owners concerned to improve the vacancy and hygiene situation of the divested retail facilities of Tin Ma Court and to abstain from increasing stall rentals substantially and evicting retail tenants before expiry of the tenancies in the divested properties of On Ting Estate and Yau Oi Estate. STH replied that the Administration would convey the issues mentioned by Mrs IP to the owners of the divested properties where appropriate.

46. Mrs Regina IP said that the owner of the relevant divested properties in Ap Lei Chau Estate (West) might carry out renovation works for the properties and the affected retail tenants might be forced to move out by end-November 2019. She suggested that the Administration should follow up the matter with the owner with a view to allowing these tenants to continue their business at least until after the coming Lunar New Year. In view that part of the floor area of the properties had been left vacant for a long time, she suggested that the Government/HA should consider renting it for providing services, such as day care services for elderly or child care centre services, to meet the demand of the estate's residents. STH replied that the Administration would make the best efforts to follow up the case in light of Mrs IP's suggestions.

47. Mr CHAN Chi-chuen asked whether to exert influence on Link, the Government would buy back Link if the price of its units dropped to a lower level in future, or buy back the divested facilities that Link might offer for sale when there was an economic downturn. Considering Mr CHAN's questions hypothetical, STH replied that it was not appropriate for the Administration to give its views on them.

Regulating divested properties

48. Ms Alice MAK opined that the suggestions in the Administration's paper such as encouraging divested property owners to step up efforts in shouldering corporate social responsibilities reflected that the Administration had no effective solutions to address the problems in divested properties. She

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questioned why the Administration did not propose amendments to the relevant legislation to provide greater power to HA to deal with non-compliances in divested properties. Ms YUNG Hoi-yan queried why the Administration/HA so far had not identified any cases of non-compliance with the provisions of the restrictive covenants in the assignment deeds of divested properties.

49. STH replied that the assignment deeds of divested properties contained, on a case-by-case basis, certain restrictive covenants, including the Retail Covenant, Carparking Covenant, Welfare-letting Covenant and Split-ratio Covenant. HA had all along been closely monitoring the compliance of these covenants. If the owner concerned was in breach of any restrictive covenants, HA would certainly pursue the matter seriously and take appropriate actions. The fact that there were no breaches of the restrictive covenants on the part of divested property owners might reflect HA's efforts in ensuring compliance of these covenants. STH further advised that the Welfare-letting Covenant required owners to let certain designated units in the divested properties concerned to non-profit-making organizations nominated by designated nominating authorities at concessionary rent or 50% of the market rent as assessed by HA, for the operation of certain social welfare or education facilities. The covenants also stipulated that property owners should sign tenancy agreements with such non-profit-making organizations for a tenancy period of three years, after which they should continue to let such units to the nominated non-profit-making organizations for operating social welfare or education facilities. As such, these organizations' rights to lease the premises were protected under the covenants.

50. Mr LEUNG Che-cheung said that the restrictive covenants were not effective in regulating divested properties, hence placing these property owners in advantageous positions to convert such properties to different uses to reap maximum profits. The Administration should study measures to deal with such inadequacies, such as those proposed in the Bill, with a view to enhancing the regulation of such properties.

Carparking facilities

51. In response to Mr LAU Kwok-fan's comment on the ineffective regulation of owners' disposal of divested car parking facilities, STH advised that land leases for divested carparking facilities did not contain conditions restricting the sale of individual parking spaces, but some leases might contain provisions requiring that sub-deeds of mutual covenant had to be entered into before the owners were able to put individual parking spaces to sale or that deed polls should be subject to the approval of LandsD. HA and

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LandsD would continue to carefully examine the owners' applications for approval of such deeds. Mr LAU remained of the view that the mechanism mentioned by STH could not effectively regulate divestment of parking spaces in Home Ownership Scheme courts.

52. Mr HO Kai-ming, Mr AU Nok-hin and Mrs Regina IP expressed concern about the high parking fees charged by owners of divested car parks. Mr HO opined that when planning the provision of parking spaces in a new public housing development, such as the one at Pik Wan Road, Yau Tong, the Administration/HA might take into account the demand of residents of the new public housing development only. He enquired how the Administration would provide sufficient parking spaces to meet the demand of other members of the public who could not afford to use divested car parks.

53. STH replied that in planning new public housing developments, the Administration/HA would increase the provision of retail facilities, amenities and vehicular parking spaces as far as practicable to meet the daily needs of the public. When considering the facilities to be provided at the Pik Wan Road site, the Administration had taken into account the limited size of the site without affecting its flat production potential and programme, the maintenance cost for the facilities to be borne by owners of SSFs that might be provided at the project site, the availability of similar facilities in the nearby areas, etc. To relieve the public demand for parking spaces, the Administration would follow the principle of "single site, multiple uses" to provide public car parking spaces in suitable "Government, Institution or Community" facilities and public open space projects. He advised that the Administration would review and revise the relevant standards on parking spaces in HKPSG. Before such revisions could be made, HA would increase the parking spaces as far as practicable such as providing parking spaces at the upper end of the standards stipulated in HKPSG when planning the public housing developments, taking into account relevant factors, such as traffic impact assessment results.

54. The Chairman said that the Administration should take note of members' views and concerns regarding the problems in divested properties, and put in place effective measures to deal with them.

VI. Any other business

55. There being no other business, the meeting ended at 4:41 pm.