

立法會
Legislative Council

LC Paper No. CB(1) 2130/99-00

(These minutes have been seen
by the Administration and cleared by
the Chairman)

Ref: CB1/BC/9/99/2

**Bills Committee on
Urban Renewal Authority Bill**

**Minutes of meeting held on
Saturday, 17 June 2000, at 8:30 am
in the Chamber of the Legislative Council Building**

Members present : Hon Edward HO Sing-tin, SBS, JP (Chairman)
Hon Gary CHENG Kai-nam, JP (Deputy Chairman)
Hon HO Sai-chu, SBS, JP
Hon LEE Wing-tat
Hon LEE Cheuk-yan
Hon NG Leung-sing
Hon Ronald ARCULLI, JP
Hon James TO Kun-sun
Hon CHAN Yuen-han
Hon LEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP

Members absent : Ir Dr Hon Raymond HO Chung-tai, JP
Hon Christine LOH
Dr Hon LEONG Che-hung, JP
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon FUNG Chi-kin
Dr Hon TANG Siu-tong, JP

Public officers attending : Mr Dominic S W WONG
Secretary for Housing

Mr K H LAU
Business Director/Allocation and Marketing
Housing Department

Mr Stephen FISHER
Deputy Secretary for Planning and Lands
(Urban Renewal and Buildings)

Ms Olivia NIP
Principal Assistant Secretary for Planning and Lands
(Urban Renewal)

Mr T K LEE
Assistant Director/Urban Renewal (Acting)
Planning Department

Mr J D SCOTT
Senior Assistant Law Draftsman

Ms R CHAI
Government Counsel

Clerk in attendance : Miss Odelia LEUNG
Chief Assistant Secretary (1)1

Staff in attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Miss Becky YU
Senior Assistant Secretary (1)3

The Chairman informed members that approval had been sought from the President of the Legislative Council (LegCo) to extend the deadline for giving notice of Committee Stage amendments (CSAs) to the Urban Renewal Authority Bill (the Bill) to midnight of 19 June 2000.

I Meeting with the Administration

Discussion on issues outstanding from previous meetings

Meeting on 10 June 2000

(LC Paper Nos. CB(1) 1840/99-00(01) and 1864/99-00(01))

2. On *independent audit team*, Ms Emily LAU asked if the annual report prepared by the independent audit team set up within the Urban Renewal Authority (URA) would include a value for money assessment, similar to that in the annual report of the Director of Audit (D of A). DS/PL replied that the Administration would recommend the inclusion of such an assessment in the annual report of the audit team.

3. Mr Ronald ARCULLI enquired about the role of the independent audit team. DS/PL advised that in addition to the appointment of an outside accounting firm to audit the accounts of URA, the independent audit team comprising non-executive directors would be responsible for auditing the work of URA, including the value for money

assessment. Its role would be similar to that of D of A. Nevertheless, as URA would form joint ventures with private developers, it would not be appropriate to apply the same standards of value for money assessment on URA as in the case of Government departments. Mr ARCULLI expressed reservations at the proposed arrangement since it would be difficult for the independent audit team to perform its duties, having regard to the complex commercial lines with which URA had to operate in its joint venture with private developers. The Chairman echoed that the proposed arrangement might not be acceptable to some members. He also informed members that Dr LEONG Che-hung was considering the need to introduce a CSA to put URA under the purview of D of A. Mr NG Leung-sing however considered the proposed arrangement practicable since the CSA proposed by the Administration in clause 16B(4) would empower the audit team to have access to URA's accounting records and to require the executive directors to furnish information as required for auditing purposes.

4. On *register of declared interests*, Ms Emily LAU asked if there was any difficulty in specifying a time limit for entering particulars contained in any declaration of interest in the register of declared interests. DS/PL advised that the entry of declaration of interest in the register would be made as soon as practicable, preferably within one working day. In order to provide flexibility to cater for circumstances which were beyond control, it would not be desirable to stipulate a time limit for such entries. The Assistant Legal Adviser 1 (ALA1) advised that clause 7(1) had expressly stated that the Chairman and members of the URA Board should declare interests as soon as practicable after their appointment or as and when the occasion might thereafter require. Without stating a time limit, clauses 7(3) and (4) as drafted would imply that such entries would be made within a reasonable time. In reply to a related question raised by Ms LAU, DS/PL confirmed that the uploading of the register of declared interests and the record of directors' attendance at URA Board meetings onto the Internet would likewise be made as soon as practicable.

5. On *clause 7(5)*, Ms Emily LAU asked if a member of the URA Board who had an interest in a subject matter under consideration by the Board would withdraw from the meeting. DS/PL advised that a member who had a direct interest on a subject matter should withdraw from the meeting when the subject was being discussed unless he was permitted to take part in the discussion by the Chairman of the Board. However, if such an interest would not affect the consideration of the subject matter, the member might be allowed to remain in the meeting venue with the approval of the Board, but he would not be allowed to vote on the subject. It would not be advisable to request all members who had any direct or indirect interest to leave the meeting because this would undermine the opportunity for exchange of valuable views, particularly from members of professional disciplines. The Chairman remarked that a more desirable arrangement would be for members to declare the nature of their interests before discussion of the subject so that the Board could decide whether a member should withdraw from the meeting.

6. Ms Emily LAU did not agree that a member who had direct or indirect interests should be allowed to participate in the discussion and vote on the subject as long as he was permitted to do so by the Chairman of the Board or the majority of members present. DS/PL said that there should be a degree of trust in the Board's decision on whether the interest declared would affect the consideration of the matter under discussion. Nevertheless, the Administration would move CSAs to amend clause 7(5) to disallow

members who had any direct or indirect interest in the matter under discussion to vote on the subject in any event as in the case of the Land Development Corporation (LDC).

7. As regards the consequence of failure to declare interest, DS/PL said that according to clause 7(1), members of the URA Board would be required to declare interests after their appointment or as and when the occasion thereafter required. If a member had deliberately failed to declare his interest, the Board could take actions as appropriate. In cases of a more serious nature, the appointment of the member could be terminated by the Chief Executive (CE). This would seriously affect the reputation of the member concerned.

Meeting on 12 June 2000

(LC Paper Nos. CB(1) 1840/99-00(02) and 1864/99-00(02))

8. Members noted the Administration's response to the points raised by the Bills Committee at its meeting on 12 June 2000.

Meeting on 14 June 2000

(LC Paper No. CB(1) 1872/99-00(01) and (02))

9. On the *flowchart* showing the major steps in processing an application for land resumption submitted by URA and the subsequent payment of compensation/ex gratia allowance (Annex B to LC Paper No CB(1) 1872/99-00(02)), the Chairman noted with concern that the offer of compensation was only made 28 days after the actual reversion of ownership to the Government. DS/PL advised that as the Lands Department (LandsD) would negotiate with owners on compensation matters during the three-month period after the serving of notice of land resumption, owners concerned would be well aware of the broad amount before the actual offer of compensation was made.

10. Mr LEE Wing-tat suggested that incentive payment in addition to the statutory compensation should be introduced to encourage owners to vacate their premises at an earlier stage. Expressing similar view, Mr James TO pointed out that LDC had been offering incentive payments to owners and tenants who were willing to move out earlier. DS/PL advised that as the Government had to be accountable for public expenditures, it did not have the flexibility to adjust the compensation payable or offer additional incentive payments to the affected owners. LandsD could only negotiate the compensation based on the valuation of the property.

11. On *clause 25*, Mr James TO noted that while the Land Resumption Ordinance (Cap. 124) had provided that resumption of land should be made in the public interest, there were no provisions requiring that the disposal of resumed land should be made in the public interest. He considered that clause 25 be amended to ensure that the Chief Executive in Council (CE in C) would not grant approval to sell or dispose of resumed land unless it was in the public interest to do so. ALA1 advised that the provision for CE in C's decisions to be made in the public interest had been included in other legislation. She provided for members' reference a list of legislation which had such provisions. DS/PL echoed that as CE in C would always act in the public interest, the proposed inclusion of "public interest" proviso in clause 25 was not necessary. The Senior Assistant Law Draftsman (SALD) added that it would be inconsistent to include the

“public interest” proviso in clause 25(2) as such was not included in clause 5(f) which empowered CE to assign duties to URA by order published in the Gazette.

12. The Chairman was not convinced of the Administration’s response. He pointed out that the order to be made by CE under clause 5(f) would be in the form of subsidiary legislation which would be subject to scrutiny by LegCo. However, clause 25(2) was a direct power conferred upon CE in C. He remarked that the public was concerned that if the disposal of resumed land was not made in the public interest, the only parties which could benefit from urban renewal would be the developers and the Government.

13. Noting that under section 3 of the Mass Transit Railway Corporation Ordinance (Cap. 270), CE might give direction in writing of a general character to the Corporation if he considered the public interest so required, Mr James TO considered that a similar proviso should be made in clause 25(2). At members’ request, the Administration agreed to consider amending clause 25(2) along the lines proposed.

14. On *clause 26(4)*, members agreed to the Administration’s proposal to add “reasonable” before “force” in clause 26(4) of the Bill.

15. On *objection period*, members agreed to the proposed amendment to delete “one month” from new clause 21(7)(6) and substitute “two months”.

Discussion on rehousing matters

16. The Secretary for Housing (S for H) advised that the Bills Committee’s proposal of allocating 20% of the Housing Authority’s (HA) annual quota of public rental housing (PRH) flats for URA for the purpose of rehousing affected tenants on compassionate grounds at the discretion of URA had been put forward to HA for consideration. The Strategic Planning Committee (SPC) of HA held a special meeting on 15 June 2000 to discuss the proposal which was subsequently accepted by SPC. According to S for H, the proposal of allowing URA to allocate PRH units on compassionate grounds at its discretion was a departure from HA’s existing practice where allocation of PRH flats on compassionate grounds would only be considered at the recommendation of the Social Welfare Department (SWD). In view of the special housing needs of urban renewal projects, SPC was prepared to accept the proposal as long as URA would establish an open, fair and transparent system, similar to that adopted by SWD, in handling cases for compassionate rehousing. Tenants who were rehoused to PRH flats at the discretion of URA would be subject to the same rules and conditions as other tenants of HA. SPC also stressed that the implementation of the proposal was a special arrangement unique to URA and should not therefore constitute a precedent for future cases. The decision of SPC would need to be endorsed by HA at its meeting on 6 July 2000.

17. While welcoming the Administration’s positive response, the Chairman sought clarification on the standards to be adopted by URA in exercising its discretion given that many tenants affected by urban renewal might not be able to meet the same set of eligibility criteria for compassionate rehousing currently adopted by SWD. The Business Director of Housing (Allocation and Marketing) (BD/AM) advised that URA would be required to adopt an open, fair and transparent approach in exercising its discretion and to establish a clear set of eligibility criteria, similar to that of SWD, for processing

compassionate cases. DS/PL acknowledged that there might be a need to adopt a slightly different set of criteria for exercising discretion in the rehousing of tenants affected by urban renewal, but the details would be for URA to decide. In any case, these details would be made known to the public by URA.

18. Mr LEUNG Yiu-chung asked how URA could exercise its discretion in a fair, open and transparent manner and whether HA could decline to allocate the 20% of its annual quota for compassionate rehousing if URA failed to meet such a requirement. In reply, S for H considered it not appropriate to pre-empt the decision of URA since he believed that URA could exercise its discretion in a fair and open manner. DS/PL assured members that URA would provide clear guidelines on the exercise of discretion to its frontline staff. Cases of an exceptional nature would be escalated to a higher level for consideration or brought to the attention of the URA Board.

19. Noting that HA had persistently refused to accept the Bills Committee's proposal of allocating 20% of its annual quota for compassionate rehousing of affected tenants at the discretion of URA, Ms Emily LAU expressed surprise over the sudden change of stance by HA. BD/AM advised that the proposal was discussed and endorsed by SPC, which was a highly representative body comprising the chairmen of different committees of HA, at its meeting on 15 June 2000. The SPC's decision would be circulated to all members of HA for consideration. Subject to their approval, the proposal would be endorsed at the HA meeting to be held on 6 July 2000. As a member of SPC, Mr NG Leung-sing welcomed the decision which was fully supported by members of SPC. He however did not consider that there was a need to justify the change of stance by HA. His views were shared by Mr James TO. As a member of HA, Mr Gary CHENG Kai-man expressed concern that there might be some different views put forward at the meeting on 6 July 2000 as the proposal, although endorsed by SPC, had never been discussed by HA. S for H advised that as the proposal was endorsed by the chairmen of the different committees of HA, the Administration was confident that the decision would have the support of HA.

20. On the distribution of the annual quota of 1,000 PRH flats, DS/PL advised that these flats would be made available by HA in consultation with URA. Ms Emily LAU asked whether in-situ rehousing would be considered for affected tenants, DS/PL assured members that tenants' requests would be accommodated as far as possible.

21. In reply to Miss CHAN Yuen-han's question, BD/AM confirmed that affected tenants who were rehoused to PRH at the discretion of URA would be no different from other tenants of HA. They would have to abide by HA management policies, including the requirement to undergo a comprehensive income and asset test after a specific period of time, after admission.

22. Mr LEE Wing-tat considered that there was a need for the Housing Society (HS) and URA to work out an acceptable and consistent set of criteria for exercising discretion. However, a lenient approach should be adopted to cater for the needs of those affected tenants who failed the criteria by a narrow margin. Mr LEE Cheuk-yan added that some flexibility should be provided for new immigrants who might not be able to meet the residence rule. He further enquired how rehousing flats would be allocated since both HS and HA would be offering 20% of their annual quota for compassionate rehousing of

affected tenants at the discretion of URA. DS/PL advised that allocation would be made to meet tenants' choice as far as possible.

Committee Stage amendments

23. Members generally agreed to the proposed CSAs as set out in LC Paper No. CB(1) 1872/99-00(03). ALA1 said that she had forwarded some suggested technical amendments to the Law Drafting Division for consideration. Some further amendments to clause 2 might also be required. She however pointed out that the Administration had failed to include "social impact assessment (SIA)" in clause 21(4), whereby such assessment would be taken into consideration by the Secretary for Planning and Lands (SPL) before reaching his decision on whether the development project should be approved. In response, DS/PL said that while SIA would be taken into consideration, the inclusion of an express provision for the consideration of such an assessment in clause 21(4) would limit the flexibility of SPL in making his decision. There might be cases where SIA might reveal problems which could not be dealt with exhaustively, the decision of SPL to approve a project despite such problems might be subject to challenge. To avoid delaying the approval mechanism, the Administration decided not to include an express provision in clause 21(4) requiring the consideration of SIA. Mr LEE Cheuk-yan held the view that the Administration should be more considerate of the interest of the general public and should take into account the objections raised which might involve different aspects of social impact. DS/PL replied that the Administration's concern was based on past experience. There had been several judicial review cases from landowners who tried to challenge SPL's decision with regard to certain provisions in legislation. These appeals had dragged on for a number of months and had delayed the entire process of urban renewal.

24. Ms Emily LAU noted that while clause 21(3)(d) provided that SIA would be submitted to SPL, reference to such an assessment in the consideration of whether the project should be approved or refused was omitted in clause 21(4). SALD explained that the purpose of clause 21 was to deal with objections which would include how residents would be affected. He did not believe that SPL would be precluded from considering SIA in his decision on whether to approve a development project. DS/PL added that the inclusion of SIA in clause 21(3)(d) was made in response to members' request at earlier meetings. Mr NG LEUNG-sing acknowledged the Administration's concern and did not insist upon the inclusion of SIA in clause 21(4).

25. Mr LEE Cheuk-yan said that he intended to move a CSA to clause 1 to the effect that the commencement notice of the Urban Renewal Authority Ordinance would be in the form of a resolution subject to positive vetting by LegCo. This would ensure that the compensation and rehousing arrangements were in order and were acceptable by the Legislature. He also indicated that he would move amendments to require that four non-executive directors of the URA Board should be elected among LegCo Members and that not less than three non-executive directors would be non-public officers. In view of the assurance given by S for H on the allocation of 20% of HA's annual quota of PRH flats for compassionate rehousing at the discretion of URA, DS/PL remarked that members might consider withdrawing the amendment to the commencement notice.

26. Mr James TO maintained that there was a need for the Bill to be further scrutinized before commencement because the decision to allocate 20% of HA's annual quota of PRH flats for compassionate rehousing at the discretion of URA had yet to be endorsed by HA at its meeting on 6 July 2000, two weeks after the Bill received its Third Reading at the last LegCo meeting on 26 June 2000. As pointed out by Mr Gary CHENG earlier on, there were chances that there might be dissenting views on the proposed allocation among HA members. Besides, approval from the Finance Committee on the compensation arrangements had to be sought before the implementation of the Ordinance. Furthermore, the requirement for positive vetting of commencement notices was not new and had been imposed in a number of legislation recently passed by LegCo.

27. DS/PL expressed reservation at the proposed positive vetting of the commencement notice. He said that despite the setting up of the Provisional URA after the passage of the Bill, it could not exercise the powers conferred upon by the Bill unless and until the Ordinance came into operation by notice in the Gazette. As the work of LDC had been temporarily suspended awaiting the establishment of URA, there would be a serious delay to urban renewal if the Ordinance could not commence operation upon the passage of the Bill and had to await positive vetting by Members in the new LegCo term.

28. Members did not agree that the positive vetting procedure would delay urban renewal as the scrutiny of the commencement notice, even under the negative vetting procedure, would be extended to the second meeting of the new LegCo term. SALD advised that under the negative vetting procedure, the commencement notice might come into operation the day when it was gazetted. However, under the positive vetting procedure, the notice would not come into operation until it was approved by LegCo. The latter procedure would take several more months before the Administration could implement the provisions. ALA1 confirmed that this was the case.

29. Mr James TO remarked that the delay would only be a matter of two months. During the interim, preparatory work could be undertaken by the Provisional URA. He held the view that there would be a higher degree of certainty if the positive vetting procedure was adopted. DS/PL advised that the Provisional URA would be set up in July 2000 but it was expected to operate for a short while pending the formation of URA.

30. Mr James TO informed members that Mr LEE Wing-tat (who had left the meeting) would move the following CSAs -

- (a) to require the appointment of all non-executive directors of URA, including the Chairman, be endorsed by LegCo;
- (b) to require the attendance of the Chairman of URA at meetings of LegCo's committees and subcommittees upon request;
- (c) to require URA to consider the needs of persons and business operations affected by the implementation of URA's projects when exercising its power to lend money; and

- (d) to require all meetings of URA be open to the public unless URA considered it not desirable to do so.

31. Mr James TO also indicated that he would move CSAs to require that the commencement notice of the Ordinance be subject to positive vetting.

32. The Chairman briefly took members through the list of undertakings made by the Administration (LC Paper No. CB(1) 1872/99-00(04)). Referring to item 19, DS/PL clarified that the Administration would consider reviewing the possibility of fixing the business loss of non-residential properties at a certain percentage of the value of the property as one of the options.

33. Referring to item 20 of the same paper, Mr LEUNG Yiu-chung enquired about the circumstances under which a bridging loan would be provided. DS/PL advised that the objective of the bridging loan was to tie the affected landowners over the difficult period should the compensation payable to them prove to be insufficient to repay the mortgage loan. This would ensure that no one would be rendered homeless as a result of urban redevelopment. Any affected landowner or tenant who faced financial difficulties resulting from redevelopment could apply for such loans. Mr LEUNG Yiu-chung remarked that if this was the case, the undertaking should be reworded to reflect its intention that the loan was not confined to the repayment of mortgage loans. Members agreed.

34. The Chairman reminded members that they should submit their CSAs to the LegCo Secretariat by midnight of 19 June 2000. He thanked members and the Administration for their efforts in the scrutiny of the Bill.

35. There being no other business, the meeting ended at 11:35 am.

Legislative Council Secretariat
11 December 2000