

立法會
Legislative Council

LC Paper No. CB(1)693/11-12
(These minutes have been seen
by the Administration)

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Panel on Development

Minutes of meeting
held on Tuesday, 28 June 2011, at 2:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Prof Hon Patrick LAU Sau-shing, SBS, JP (Chairman)
Hon LAU Wong-fat, GBM, GBS, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon CHEUNG Hok-ming, GBS, JP
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon Tanya CHAN
Hon Albert CHAN Wai-yip
- Members attending** : Hon LI Fung-ying, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Starry LEE Wai-king, JP

Public officers attending : **Agenda item IV**

Development Bureau

Mrs Carrie LAM CHENG Yuet-ngor, GBS, JP
Secretary for Development

Mr CHOW Tat-ming, JP
Permanent Secretary for Development
(Planning and Lands)

Ms Winnie SO Chui-ying
Principal Assistant Secretary (Planning and Lands)⁴

Urban Renewal Authority

Mr Barry CHEUNG Chun-yuen, GBS, JP
Chairman

Mr Quinn LAW Yee-kwan
Managing Director

Ir Calvin LAM Che-leung
Executive Director (Operations & Project Control)

Ms Iris TAM Siu-ying, JP
Executive Director (Planning & Project Control)

Mr Lawrence YAU Chung-hok
Director, Corporate Communications

Agenda item V

Mrs Carrie LAM CHENG Yuet-ngor, GBS, JP
Secretary for Development

Mr CHOW Tat-ming, JP
Permanent Secretary for Development
(Planning and Lands)

Mr Victor NG Hon-wing
Principal Assistant Secretary (Planning and Lands)⁶
Development Bureau

Miss Annie TAM Kam-lan, JP
Director of Lands

Mr AU Choi-kai, JP
Director of Buildings

Mr Paul PANG Tat-choi
Assistant Director/Existing Buildings 1
Buildings Department

Mr PANG Kwai-kuen
Chief Land Executive/Village Improvement
(Village Improvement and Lease Enforcement/
Land Control Section)
Lands Department

Agenda item VI

Mr Enoch LAM Tin-sing, JP
Deputy Secretary (Works)²
Development Bureau

Mr Kelvin LO Kwok-wah
Chief Assistant Secretary (Works)⁶
Development Bureau

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)⁴

Staff in attendance : Ms Sharon CHUNG
Senior Council Secretary (1)⁴

Mr Simon CHEUNG
Senior Council Secretary (1)9

Ms Christina SHIU
Legislative Assistant (1)4

Action

I Confirmation of minutes

(LC Paper No. CB(1)2531/10-11 -- Minutes of meeting on
29 March 2011)

The minutes of the meeting held on 29 March 2011 were confirmed.

II Information papers issued since the last meeting

(LC Papers No. CB(1)2270/10-11(01) -- Hon LEE Wing-tat and
and (02) Hon James TO Kun-sun's
letter dated 12 April 2011
on issues relating to the
policy and
implementation of the
"Design and Management
Guidelines for Public
Open Space in Private
Development" and the
Administration's response

LC Paper No. CB(1)2358/10-11(01) -- Referral from the
Complaints Division
regarding the outsourced
works of the Joint Office
of the Buildings
Department/the Food and
Environmental Hygiene
Department for
Investigation of Water
Seepage Complaints

LC Papers No. CB(1)2400/10-11(01) -- Submission on
and (02) conservation of Hung Lau
at Castle Peak, New
Territories from a member
of the public dated
15 April 2011 and the

- Administration's response
LC Paper No. CB(1)2510/10-11(01) -- Administration's paper on "Operation Building Bright" -- Proposed adjustment of disbursement of grants to elderly owner-occupiers
- LC Paper No. CB(1)2510/10-11(02) -- Administration's paper on measures to minimize fresh water losses in inside services in residential developments
- LC Paper No. CB(1)2510/10-11(03) -- Administration's paper on progress report on the HKSAR's work in support of reconstruction in the Sichuan earthquake stricken areas)

2. Members noted that the above information papers had been issued since the meeting on 24 May 2011.

III Items for discussion at the next meeting

- (LC Paper No. CB(1)2530/10-11(01) -- List of outstanding items for discussion
LC Paper No. CB(1)2530/10-11(02) -- List of follow-up actions)

3. The Chairman said that the Panel had agreed on 24 May 2011 that the regular meeting in July 2011 be held on 20 July. He said that at the request of the Administration, the meeting would be advanced to 15 July (Friday). He further advised that should the Legislative Council ("LegCo") meeting of 13 July continue on 15 July, the Panel meeting would be deferred to 16 July (Saturday) or 20 July (Wednesday). However, the Secretary for Development ("SDEV") would not be available on 20 July.

4. Miss Tanya CHAN proposed that the next Panel meeting be held on or before 12 July 2011, as she anticipated that some members might not be available after the last LegCo meeting of the current session of 13 July. In view of clashes of meetings during daytime, Mr Albert CHAN suggested exploring an evening timeslot for the next Panel meeting. The Clerk explained that as there would be four items for discussion, which would last about four hours, a timeslot in the evening might not cater members.

5. The Chairman instructed the Clerk to check if the next regular meeting could be arranged before 13 July. Some other members opined that if it could not be so arranged, they had no objection to holding the next meeting on 20 July.

(Post-meeting note: The regular meeting of the Panel in July was held on 16 July 2011.)

6. Members agreed that the following items be discussed at the next meeting --

- (a) Progress Report on Heritage Conservation Initiatives;
- (b) The Work of the Tree Management Office;
- (c) Repair and Replacement of Aged Water Mains and Temporary Water Supply; and
- (d) Implementation of the Revised Management Scheme for the Display of Roadside Non-commercial Publicity Materials.

IV Work of the Urban Renewal Authority

(LC Paper No. CB(1)2530/10-11(03) -- Administration's paper on work of the Urban Renewal Authority

LC Paper No. CB(1)2530/10-11(04) -- Paper on the work of the Urban Renewal Authority prepared by the Legislative Council Secretariat (Updated background brief))

7. SDEV briefed the Panel on the first work plan of the Urban Renewal Authority ("URA") under the revised Urban Renewal Strategy ("URS"), which was promulgated on 24 February 2011 after a two-year review exercise. She highlighted that URA had taken prompt actions to implement the new URS in recent months. In March 2011, URA announced the details of the Flat-for-flat Scheme and launched the "Integrated Building Maintenance Assistance Scheme" with the Hong Kong Housing Society ("HKHS"). Frameworks for the "facilitator role" in redevelopment and for the "demand-led" redevelopment model were introduced in April 2011. The

first District Urban Renewal Forum ("DURF") in Kowloon City was set up in May 2011. With Dr Greg WONG Chak-yan appointed the Chairman, the first meeting was held in June 2011. Besides, URA would soon inject \$500 million to the Urban Renewal Trust Fund ("URTF"), which was set up to provide a steady and independent source of funding for various initiatives under the new URS. The Board of Directors of URTF would be chaired by Professor LEUNG Cho-bun of the Department of Social Work and Social Administration of the University of Hong Kong.

8. SDEV pointed out that under the new URS, URA was tasked with adopting redevelopment and rehabilitation as its core businesses, meaning that it would play a key role in rehabilitation of dilapidated buildings to enhance building safety in old urban areas. To facilitate rehabilitation work, URA had allocated over \$1.3 billion in its five-year Corporate Plan for its rehabilitation programmes. URA would also set up the first Urban Renewal Resource Centre in 2011-2012 to provide one-stop services for building rehabilitation and urban redevelopment, and would gradually expand its rehabilitation promotion and support programme to cover the whole territory.

9. On the financial situation of URA, SDEV said that the financial results of individual redevelopment projects completed in 2010-2011 were annexed to URA's work report enclosed to the Administration's paper. She added that members would recall that the disclosure of project-specific financial information was made in response to their request when the work of URA was discussed by the Panel in previous years. It had demonstrated URA's continuous efforts to enhance corporate transparency and accountability. Concluding her remarks, SDEV said she was confident that under the new URS, URA would take a more proactive and diversified approach in its work, particularly in redevelopment and rehabilitation, to create a quality living environment for the people of Hong Kong.

10. The Chairman of URA ("Chairman/URA") highlighted URA's work in the year ended 31 March 2011. He said that URA's work on redevelopment and rehabilitation in the past year had contributed to the improved living conditions of tens of thousands of residents in old urban areas. To date, URA had embarked and continued to implement a total of 54 redevelopment projects, bringing better accommodation to more than 30 000 households. Of these projects, 13 had been completed, including the Tsuen Wan Town Centre redevelopment project which had been taken over from the Land Development Corporation ("LDC") years ago and finished in 2010-2011. He said that the project had been a highly challenging one, owing to its scale, complexity and potential financial risks. Before

redevelopment, the area was overcrowded with very poor living conditions. Sub-divided flats were common, with a case in which 26 households sharing one flat, making it a record number in all urban redevelopment projects. The completion of the project had greatly improved the living conditions of over 1 000 residents and brought vibrancy to the Tsuen Wan Town Centre. Chairman/URA expressed appreciation to Mr Abraham SHEK, former Chief Executive of LDC, for his courage and contribution to the commencement of the project, and to Mr Albert CHAN for his continual support to the implementation of the project in his capacity as Tsuen Wan District Councillor. While there was a deficit in the account statement of the project, he believed that a surplus would turn up when the commercial spaces were sold at a later stage.

11. On the rehabilitation front, Chairman/URA advised that since 2004, URA had assisted property owners to rehabilitate over 520 buildings, benefiting almost 40 000 households. In 2010-2011, URA helped rehabilitate 320 buildings, representing an increase of 230 buildings or 250% over the 90 buildings rehabilitated in 2009-2010. In addition, under the Government's Operation Building Bright programme, up to the end of March 2011, URA had been providing financial and technical assistance in building rehabilitation to owners of over 980 dilapidated buildings.

12. Chairman/URA further advised that in the first half of 2011, URA had launched the following six new initiatives --

- (a) Building conditions survey -- URA had started a study on the physical conditions of 7 000 buildings aged 30 years or above to collect information for future redevelopment and rehabilitation plans. Inspection of 3 000 buildings had been completed. Preliminary results showed that there were about 4 000 buildings aged over 50 years in the urban areas, with more than half in dilapidated conditions of various degrees. URA planned to place more emphasis on its building rehabilitation programmes.
- (b) Two new models of redevelopment -- To realize the "bottom-up" spirit of the new URS, URA would take up a new "facilitator role" in redevelopment and would also adopt a new "demand-led" redevelopment model. Under the role of "facilitator", URA would assist property owners to assemble titles for owner-initiated redevelopment. The facilitation would not involve the acquisition of any interest in the concerned buildings so as to maintain URA's credibility and impartiality

throughout the process. The demand-led redevelopment model allowed owners to approach URA to put forward their case for redevelopment. Under this model, the prevailing mechanism and rate of compensation for affected owners would apply and URA would take up the responsibility for rehousing or compensating the affected tenants. Applications for participation in the two new models would be invited from July 2011.

- (c) Flat-for-flat Scheme -- Affected owners of redevelopment projects commenced by URA after 24 February 2011 would have the option of participating in this Scheme as an alternative to cash compensation. Owners opting for this Scheme would have a choice of "in-situ" flats in the new development or flats in Kai Tak Development.
- (d) Ma Tau Wai redevelopment project -- Following the building collapse incident at Ma Tau Wai Road in January 2010, URA took special measures to quickly rehouse 46 tenants, provide ex-gratia payments to 95 tenants and commence a redevelopment project covering the collapsed building site and its adjacent buildings at Ma Tau Wai Road and Chun Tin Street to address the problem of building decay. URA issued acquisition offers to affected owners in May 2011 after the Appeal Board (Urban Renewal Authority Ordinance) had dismissed two appeals against the authorization of the project.
- (e) Integrated Building Maintenance Assistance Scheme -- The Scheme, launched in April 2011, consolidated the five financial assistance schemes for building rehabilitation operated by URA and HKHS into a one-stop service. To date, over 1200 enquiries about the Scheme had been handled, reflecting that the improved service was well received by property owners.
- (f) Establishment of URTF -- URA would inject \$500 million into URTF to provide a steady and independent source of funding for various initiatives envisaged under the new URS. The Board of Directors of the URTF company would be formed by independent persons appointed by the Administration. Social service teams providing assistance and advice to residents affected by URA projects would be funded by URTF and report

to its Board of Directors. This arrangement would enhance the independent image of the social service teams.

13. Chairman/URA estimated that in the five-year period from 1 April 2011 to 31 March 2016, a total expenditure of about \$20 billion would be required to meet the costs of all projects contained in its 2011-2016 Corporate Plan. URA planned to initiate 10 redevelopment projects with an addition of one to two demand-led redevelopment projects and one to two URA-facilitated projects in each year. On building rehabilitation, URA would allocate over \$1.3 billion in the next five years, covering about 2 600 buildings, five times the number of buildings assisted under URA's Materials Incentive and Loan Schemes so far. He envisaged that about 3 400 residential units, half of which being flats of less than 500 square feet, would be provided to the public from URA redevelopment projects in the next five years to address housing needs.

14. On communication with the community, Chairman/URA announced that URA planned to establish a few Urban Renewal Resource Centres in various areas, with the first scheduled to be opened at the Larch Street/Fir Street project in 2011-2012 to offer redevelopment and rehabilitation related information and advice to the public. URA representatives would actively participate in DURF and take into consideration the views expressed by its members in formulating urban renewal plans. Chairman/URA assured members that URA would adopt the "people first, district-based and public participatory" approach under the new URS in striving to meet its vision of creating a quality and vibrant urban living environment in Hong Kong.

15. Managing Director of URA ("MD/URA") briefed members on the financial position of URA. He said that as at 31 March 2011, URA's net asset value was \$19.2 billion, which comprised a capital injection totaling \$10 billion from the Government and an accumulated surplus from operations of \$9.2 billion. The annual operating surplus of \$2.2 billion for the year ended 31 March 2011 was \$4.8 billion lower than the operating surplus of \$7.0 billion in 2009-2010 but higher than the annual operating deficit of \$4.5 billion in 2008-2009. He attributed the large accumulated surplus to two factors. First, URA was exempted by the Government to pay land premium. The total amount of land premium forgone by the Government in making land grants to URA up until 31 March 2011 was \$5.4 billion. Secondly, property prices were on the surge in general over the past ten years. Some URA redevelopment projects expected to cause a deficit in the beginning had turned out to be profit-generating ones. He emphasized that any surpluses earned by URA were used to finance further

redevelopment projects and URA's rehabilitation, revitalization and preservation efforts.

16. MD/URA advised that there was a loss of \$50.3 million from the five projects completed in 2010-2011. Nevertheless, when the commercial spaces in these projects were sold at a later stage, they would generate an estimated profit of \$249 million for URA. On the other hand, high property prices had an impact on URA's financial commitment to purchase properties in redevelopment sites. As at 31 March 2011, the stock of acquired properties stood at \$15.9 billion. It was estimated that an additional acquisition cost of \$12.8 billion would be incurred for projects already started. Where necessary, URA would make new external financing arrangements. He assured members that, to meet the challenges in the years ahead, URA would continue to manage its finance in a prudent manner.

The "people first, district-based and public participatory" approach to urban renewal

17. Mr Albert CHAN considered that the new URS was an improvement over the previous one in helping URA to set its urban renewal strategies in the right direction. He was of the view that in implementing redevelopment, revival of the local economy and creation of jobs for the community were important objectives. Therefore, the selection of an area for redevelopment and the timing for implementing a project were key issues to consider. He urged that URA should not implement redevelopment projects on the basis of financial consideration only, but also addressing the needs of the community.

18. SDEV emphasized that under the new URS, planning of urban renewal projects would be carried out in a "people first, district-based, public participatory" approach. Therefore, urban renewal projects would be initiated on the consideration of their merits in improving the living environment of the community and not on the financial benefits to be generated. She added that completed urban renewal projects, such as those in Wan Chai and Tsuen Wan Town Centre, had proved that they could bring vibrancy to old urban districts, thus achieving the results advocated by Mr Albert CHAN.

19. Noting that the new URS highlighted a "people first, district-based and public participatory" approach to urban renewal while the previous URS emphasized a "people-centred" approach, Ms Cyd HO queried whether URS had shifted the prime focus from people to district planning, and expressed concern that more weight on planning would place the consideration for the

needs of local residents and business operators in a secondary position. She stressed that under a district-based approach to urban renewal, it was essential to conduct early consultation with the residents and business operators on how to preserve the existing social and economic characteristics of a district before any redevelopment plans were made. She expressed disappointment that many small businesses with local characteristics, such as printing shops and metal ware shops in Sham Shui Po and Tai Kok Tsui, had disappeared in the process of urban redevelopment.

20. Chairman/URA explained that the "people-first, district-based and public participatory" approach of the new URS would reinforce URA's efforts in attaching importance to the views of people in the community affected by redevelopment. This was illustrated by the provision of new compensation options and new redevelopment models for property owners, such as the introduction of URA-facilitated projects and demand-led projects. Under the two new redevelopment models, owners would decide whether URA's involvement was needed. He held the view that the new URS had adopted a more people-centred approach.

21. Regarding the continuous operation of small businesses in redeveloped areas, Chairman/URA advised that URA had enhanced its efforts in recent years to help the business operators identify suitable premises in the vicinity for relocation and continued operation of these businesses. URA would strive to provide assistance to shop owners and operators.

22. SDEV assured members that under the new URS, the engagement with local residents in the planning of district urban renewal projects would be strengthened. At the first meeting of the Kowloon City DURF, the Chairman of the Forum had made it clear that communication with local stakeholders was of utmost importance. Members and staff of the Forum would actively organize various engagement activities to collect local views on the renewal of the district.

23. Mr Frederick FUNG stressed the importance to enhance the value of an area to bring about improvement of the environment and better land use in the urban renewal process, and the need to preserve the social networks of the community at the same time. It was therefore essential for the planning of a redevelopment project to strike a balance between adding economic value to the land by means of providing new hardware and preserving the existing social network. It should be noted that if there was a big gap between the price of the redeveloped properties and the compensation

received by affected residents, it would be impossible for the residents to continue living in the redeveloped area and hence their social networks would be torn down. Moreover, the tendency to replace small shops at the street level by big shopping malls after redevelopment had also affected the social lives of residents of old areas. To put the "people first, district-based" principle of the new URS into practice, it would therefore be essential for URA to understand the needs, the culture and history as well as the social network of the affected community before proceeding with any redevelopment planning. In addition, he suggested that URA should take the opportunity of redeveloping an area to provide new public facilities for the wider community covering regions of the territory.

24. While sharing Mr FUNG's views about the need to maintain the existing social networks in old areas in the urban renewal process, Chairman/URA pointed out the difficulties in fully preserving the social networks. Nonetheless, he assured members that URA would work harder on this issue. He said that URA was aware that the replacement of street shops by big malls had affected the vibrancy of local communities and advised that URA would put more emphasis to provide street shops in new projects as far as possible.

25. Mr Frederick FUNG commended URA's efforts in consulting concerned District Councils before finalizing redevelopment plans. Whereas the approach adopted by HKHS was undesirable as it only provided briefings to District Councils after making decisions on the development plans or even after completion of the tender exercises for the concern projects. He urged that URA, HKHS and the Hong Kong Housing Authority ("HA") should better coordinate their efforts in pursuing urban renewal. In particular, he opined that should the Home Ownership Scheme ("HOS") be resumed in future, HOS flats should be offered to property owners affected by redevelopment projects under the new Flat-for-flat Scheme. This arrangement would provide more compensation options to meet the needs of owners.

Redevelopment

Number of redevelopment projects

26. Noting that URA had completed 13 redevelopment projects over the past 10 years, Mr CHAN Kam-lam expressed concern about the slow progress of urban regeneration, and urged the Administration and URA to conduct a review to find out the reasons.

27. SDEV said that URA had encountered many challenges and difficulties in carrying out its work in the past ten years. This had prompted the Administration to conduct the URS review. With the promulgation of the new URS in February 2011, it was expected that most hurdles with URA's work should have been removed. Chairman/URA added that URA had commenced and worked on a total of 54 redevelopment projects in the past 10 years, which would bring significant improvement to the living conditions of residents in old urban areas. The most challenging task involving lengthy process in a redevelopment project was the handling of compensation arrangements for affected property owners and residents. Once such arrangements had been settled, a redevelopment project would normally complete in four to five years.

Flat-for-flat Scheme

28. Mr Albert CHAN pointed out that it was insufficient to just earmark 1 000 small- to medium-sized flats in Kai Tak Development for the implementation of the Flat-for-flat Scheme in anticipation of the housing need of residents affected by the redevelopment projects in Hung Hom, To Kwan Wan, Ngau Tau Kok and Kwun Tong, etc. He opined that more units should be made available at Kai Tak for the Scheme.

29. SDEV said that if much demand for the Flat-for-flat Scheme at Kai Tak was seen, the Administration would consider providing more land in Kai Tak Development for the Scheme. At present, the attraction of this option to eligible owner-occupiers was untested especially when flats at Kai Tak were not yet available.

30. Ms Cyd HO pointed out that there was a large discrepancy in the acquisition price offered by URA to owners and the price of the redeveloped properties, and so affected owners could not afford flats under the Flat-for-flat Scheme. She stressed that the flats under the Scheme should be at affordable prices, without requiring the owners to make top-up payments, and URA should help owners solve accommodation problems in the interim before completion of such flats. Otherwise, owners would not be interested in the Scheme.

31. Chairman/URA opined that as the flats under the Flat-for-flat Scheme were not yet available at the moment, it might be premature to comment on the owners' response to the Scheme. He believed that there would be stronger support for the Scheme when the flats were ready for occupation. URA planned to reserve a certain number of flats in each of its redevelopment projects commencing in the next five to six years for

implementing the Scheme. The arrangement would provide readily available flats for affected owners in planned redevelopment projects, and hence increase attractiveness of the Scheme. Regarding the concern about the acquisition offer and the price of the new flats, Chairman/URA pointed out that in a recent offer to property owners at a project in Ma Tau Wai Road, the "seven-year flat rate" was \$9,785 per square foot. He believed that URA's compensation and Home Purchase Allowance rate, based on the value of a notional seven-year old flat in the same district, would enable affected owners to buy a newer flat, probably a bit smaller, in the same district.

Compensation to owners and tenants

32. Mr James TO declared that he was a non-executive director of URA. He pointed out that, while the existing compensation for URA project-affected owners was determined on the basis of the value of a notional seven-year old replacement property in the same district, it was not uncommon that there was a wide discrepancy in the value of the property assessed by URA and the owner's surveyor. In the circumstance that both parties failed to reach an agreement on the compensation, under the present system, the Government could resume the property interests in accordance with the Lands Resumption Ordinance and the compensation offered to the affected owner would be much lower as a result. In this regard, Mr TO suggested setting up an arbitration scheme similar to the financial dispute resolution scheme for urban redevelopment projects. Under the proposed scheme, if an affected property owner opted to seek arbitration on the compensation, it would be compulsory for URA to take part in the arbitration and the result would be binding on URA. URA would also be responsible for the arbitration fees involved. He believed that the implementation of such a scheme, involving an independent arbitrator, would reduce confrontations and speed up the process of property acquisition for urban renewal.

33. MD/URA explained that URA and affected owners would negotiate for the compensation arrangement. Affected owners could hire independent surveyors to assess the market price of their property and URA would subsidize the expenses involved if there was a valid case. Moreover, in case the Government resumed the property interests under the Lands Resumption Ordinance and the owner disagreed to the compensation offered at that stage, he could seek the adjudication of the Lands Tribunal. Mr James TO explained that one of the merits of his proposal was to advance the arbitration process to an earlier stage. Chairman/URA said that URA would discuss internally Mr TO's suggestion.

34. Ms Cyd HO said that in the redevelopment project being carried out in Kwun Tong, there were many unusual tenancy agreements which were made to put tenants in disadvantaged positions. She called on URA to review its policy and administrative procedures in providing compensation to tenants. Otherwise, genuinely affected tenants would be deprived of rehousing or compensation and ex gratia payments.

URA-facilitated projects and demand-led projects

35. Mr CHAN Kam-lam said that URA's work in the past ten years had achieved positive results in urban renewal and brought improvement to the urban landscape and living environment for many residents in old districts. While welcoming URA's adoption of a "facilitator role" and demand-led redevelopment approach under the new URS, Mr CHAN opined that URA should proactively publicize its new role and initiate demand-led redevelopment projects. Noting the difficulties for property owners of aged buildings in organizing action or assembling titles for redeveloping their buildings, URA's proactive actions in taking up facilitated or demand-led redevelopment projects would speed up the urban regeneration process. He enquired the details about URA's work in this regard under its five-year Corporate Plan. Mr CHAN further proposed that in pursuing redevelopment, URA should take the opportunity to enhance the living environment of old urban areas by providing more open spaces and recreational facilities.

36. SDEV agreed that there should be increased efforts to enhance property owners' awareness about building redevelopment and rehabilitation. Given that redevelopment and rehabilitation were URA's core businesses under the new URS, URA would definitely allocate more resources for publicity on these areas of work. The Administration would work with collaborators such as the Senior Citizen Home Safety Association, through outreach support services, to explain to elderly owners the various options for redeveloping aged buildings and the available assistance. In addition, a pilot mediation scheme had been launched to render support to elderly owners facing the prospect of compulsory sale in private redevelopment.

37. Mr KAM Nai-wai said that in the light of increasing property prices and the lowering of the application threshold for compulsory sale of properties for redevelopment, more and more flat owners, in particular the elderly owners, were approached by buyers from the private sector persuading them to participate in redevelopment projects. However, many

elderly owners preferred assistance from public bodies such as URA in redeveloping their properties. As URA would provide assistance to property owners as consultant to help them assemble titles for owner-initiated redevelopment in assuming the new "facilitator role" in redevelopment, Mr KAM said that many property owners would be interested in URA-facilitated projects. However, because owners were unsure about the financial gains they could obtain through the redevelopment project, they might lack the initiative to approach URA for assistance. Noting that URA only planned to launch one to two facilitation projects in the coming year, he considered such number too modest, and urged URA to publicize its facilitation service widely in helping owners to redevelop their properties. He further asked whether URA would advise owners about the estimated financial gains from facilitation projects to help them decide whether to participate on such projects.

38. Chairman/URA said that while URA planned to launch one to two facilitation projects as a pilot scheme in the first year in implementing the new URS, it would surely consider initiating more such projects with more demand from owners and would increase its resources in this area accordingly. As regards assistance to property owners, Chairman/URA agreed with Mr KAM's view that owners of old buildings were in need of advice and assistance in redeveloping their properties. Besides rendering assistance to owners in taking up facilitation projects, URA would consider other form of assistance for owners, especially the elderly owners, to enhance their understanding on protection of their rights in the property acquisition process. He assured members that URA would allocate adequate resources to this area of work.

39. Mr Alan LEONG enquired whether there would be any interaction between the facilitation and demand-led models, such as a facilitation project might turn into a demand-led project, or vice versa.

40. Chairman/URA clarified that although both models aimed to provide more options for redevelopment to owners of old buildings, they had adopted distinct principles in execution and should not be mixed up. For a facilitation project, at least owners of 50% or more of the undivided shares of the interests of a site should make a joint application to URA for consideration. URA's role would be strictly confined to coordinating the assembly of 80% to 90% of the titles in the subject buildings for joint sale in the market, and URA would not be involved in the acquisition of any interest in the buildings. Under this approach, URA would assist property owners of old buildings to go through the technical and complicated process of joint sale in the redevelopment process. As for the demand-led projects,

URA required that owners of 67% or more of the undivided shares of the respective lots of a site to make a joint application to URA. If the application was accepted, URA would issue acquisition offers.

Building rehabilitation

41. Mr Albert CHAN remarked that the Administration and URA should take a more aggressive approach to building rehabilitation by setting a target number of buildings for completion in the rehabilitation programme over a reasonable period of time.

42. SDEV explained that in handling the problems found in dilapidated buildings, technical and financial support to property owners which URA and other concerned parties were providing in their building rehabilitation programmes could only address the hardware part of the issue. Very often, problems in dilapidated buildings were related to the software part, i.e. building management, which was generally weak in such buildings. Without adequate software support, it would be very difficult for the Administration to set a target for building rehabilitation in the longer term.

43. Noting that URA had completed rehabilitation of about 500 old buildings in 2010-2011 whereas the Buildings Department ("BD") could only set a target to inspect 150 buildings each year in identifying irregularities in building works associated with sub-divided flats, Mr LEE Wing-tat enquired whether the information about the conditions in old buildings collected by URA in its rehabilitation programmes could help the Administration build up a database on the conditions of dilapidated buildings in Hong Kong. In this connection, he expressed dissatisfaction about the Administration's earlier reply to his questions raised at LegCo meetings that there was no systematic information on sub-divided units in Hong Kong. He said that the suggested database covering information on conditions of sub-divided units, fire escape, electric cables, water pipes, etc., in dilapidated buildings would be useful to facilitate enforcement work on building safety. Mr LEE further suggested that such information be made public, and urged that concerned departments and organizations, including BD, the Fire Services Department and URA, should better coordinate their work to enhance efficiency in building rehabilitation and ensuring building safety.

44. SDEV replied that through the implementation of the Operation Building Bright programme, BD, URA and HKHS had built up a strong partnership in building rehabilitation with BD focusing on enforcement and URA and HKHS providing technical support. Given URA's enhanced role

in rehabilitation under the new URS, its work would help BD grasp more useful information about the conditions of dilapidated buildings in Hong Kong. For instance, URA had been working closely with BD in conducting the building conditions survey. SDEV believed that, with the enactment of the Buildings (Amendment) Bill 2010 ("the Bill") (the second reading would be resumed at the LegCo meeting on the next day) and the roll-out of the mandatory building and window inspection schemes, the Administration would be able to set up a comprehensive database on conditions of dilapidated buildings. She added that under the mandatory building inspection scheme, BD would select around 2 000 private buildings that were aged 30 years or above every year and require their owners to carry out inspection and repair works in relation to the common parts, external walls and projections of the buildings. The Administration would consider the format and channels for publishing the information in the database in future. She stressed that the Administration welcomed members' suggestions on further work to enhance building safety in Hong Kong. Lastly, she highlighted that URA's strengthened role in rehabilitation did not mean that it would attach less importance to redevelopment. For many dilapidated buildings, the ultimate solution to the various problems therein might only be redevelopment.

Other issues

45. Referring to a letter from the Concern Group for Yan Shun Lane Business Operators expressing concerns about the arrangements for the Kwun Tong Town Centre redevelopment project, Mr KAM Nai-wai and Mr Alan LEONG requested the Administration to provide a written response after the meeting. Mr LEONG said that, as he understood, the major problem faced by the business operators at Yan Shun Lane was that they lacked documents supporting possession of the relevant land titles, despite the fact that they had been allowed to operate their businesses at the area for many years. As a policy was in place for handling such kinds of problems, he urged that the Administration should explain it to the Group and follow up the matter in a timely manner.

46. MD/URA said that the Administration had an existing policy for handling similar cases and URA was following up the case with relevant Government departments. They would need sometime to work out a solution for the concerned business operators.

(Post-meeting note: The letter from the Concern Group for Yan Shun Lane Business Operators was circulated to members on 29 June 2011 vide LC Paper No. CB(1)2609/10-11(01)). The

Administration's response was circulated on 18 July 2011 vide LC Paper No. CB(1)2758/10-11(01.)

V Unauthorized building works in New Territories exempted houses

(LC Paper No. CB(1)2530/10-11(05) -- Administration's paper on enforcement against unauthorized building works in New Territories exempted houses

LC Paper No. CB(1)2530/10-11(06) -- Letter dated 20 May 2011 from Hon LEE Wing-tat on issues relating to unauthorized building works in New Territories exempted houses

LC Paper No. CB(1)2530/10-11(07) -- Paper on unauthorized building works in New Territories exempted houses prepared by the Legislative Council Secretariat (Background brief)

47. SDEV briefed the Panel on the Administration's paper with photographs showing some New Territories ("NT") village houses with unauthorized building works ("UBW") in blatant contravention of existing legislation. She highlighted the following points --

- (a) The regulatory framework for NT village houses was different from that for buildings in urban areas. While buildings in urban areas were subject to the regulation of the Buildings Ordinance ("BO") (Cap. 123) the current edition of which was first enacted in 1955, NT village houses were mainly regulated in terms of height and roofed-over area stipulated in the Building Ordinance (Application to the New Territories) Ordinance (Cap. 322) which came into effect in 1961 and was replaced by the Building Ordinance (Application to the New Territories) Ordinance (Cap. 121) ("BO (Application to NT) Ordinance") in 1987. Cap. 322 and Cap. 121 provided that NT village houses which met the specifications stipulated in the ordinances would be exempted from specific provisions of BO and the regulations

made under BO. The Director of Lands was responsible for issuing Certificates of Exemption to NT village houses. The granting of exemption to NT village houses had taken into account the relatively simple layout and design of these houses and their lower risks to public safety. Notwithstanding, NT village houses were still subject to other provisions of BO, for instance section 24 on removal of UBW and section 26 related to the control of dangerous buildings, as well as other legislation, such as the Fire Services Ordinance (Cap. 95).

- (b) As for village houses built on old schedule lots, the Administration did not subscribe to the Heung Yee Kuk New Territories ("HYK")'s view that these village houses were not subject to the regulation of existing legislation. The Administration believed that BO (Application to NT) Ordinance applied to all building works, including reconstruction works, carried out in NT village houses after 1 January 1961.
- (c) The Ombudsman published its direct investigation report in 2004 recommending that given the large number of UBW in NT village houses, the Administration should consider adopting a two-pronged strategy to develop a realistic enforcement policy to contain the problem in NT village houses and to rationalize the existing UBW that were "safe, not serious and thus tolerable". Accordingly, the Administration had set up the Working Group on Rationalization of UBW in NT Village Houses ("the Working Group") with representatives from HYK in 2006 to look into the matter.
- (d) In view of the current regulatory regime, actual situation on ground, views of different parties and past experience in tackling UBW in urban areas, the Administration proposed to adopt a pragmatic approach in dealing with UBW in NT village houses through categorization of UBW and prioritization of enforcement in line with four guiding principles: (i) safeguarding building and public safety; (ii) acting in accordance with the law; (iii) categorization for control and management; and (iv) prioritization for progressive enforcement. The approach had gained public support.
- (e) The Administration would uphold the law in tackling all UBW in the territory in a fair manner. As such, the Administration

would not entertain any suggestions for an amnesty or a levy in lieu of enforcement against UBW, which was neither fair nor reasonable and was incompatible with the spirit of the rule of law.

- (f) With building and public safety being the prime concern, BD would maintain existing practice to accord priority in tackling UBW in NT village houses which constituted obvious hazards or imminent danger to life or property and UBW under construction or newly completed. To strengthen enforcement, BD had broadened the definition of "new UBW in progress" and revised guidelines for its frontline staff. This would help strengthen enforcement and plug the loophole in enforcement.
- (g) For UBW found in NT village houses which were not posing imminent danger but constituting serious contravention of the law and imposing higher potential risks, the Administration would take proactive enforcement actions against them. Targets in the first round would include village houses of four storeys or more, houses built without a Certificate of Exemption and without the approval and consent of the Building Authority, enclosed rooftop structures covering more than 50% of the roofed-over area of the building and unauthorized projecting structures attached to UBW, etc.
- (h) For other UBW constituting less serious contravention of the law and imposing lower potential risks, BD intended to bring in a registration scheme to collect more information on them ("the proposed registration scheme"). BD would categorize the UBW and conduct objective risk assessment, and formulate progressive enforcement plans in a systematic manner.
- (i) In recognition of rising aspiration for improved living environment, the Administration would allow specific environmental and amenity facilities to stay or be installed in NT village houses without having to seek permission from Lands Department ("LandsD") and BD, provided that the village houses were exempted under Cap. 322 or Cap. 121.
- (j) In support of owners of NT village houses in needs, the Administration would, as appropriate, provide low-interest or interest-free loans for them to remove the illegal structures. If necessary, the Administration would make re-housing

arrangements for affected residents of UBW. The Administration would also review the existing work arrangement to facilitate redevelopment of village houses, including those built on old schedule lots.

Proposed arrangement of enforcement against UBW in NT village houses

48. Mr WONG Kwok-hing declared that he had removed two suspected UBW in his residence in the week before. He considered the Administration's proposal reasonable and pragmatic; and encouraged the Administration to liaise closely with HYK, relevant rural committees and village representatives so that resistance from indigenous villagers could be reduced to the minimum.

49. Dr Priscilla LEUNG pointed out that Article 40 of the Basic Law protected the lawful traditional rights and interests of indigenous villagers of NT, and was the basis for different treatment for NT village houses. She considered that the Administration's ineffective enforcement against UBW in NT village houses in the past had contributed to the problem at present. She was concerned that in view of the large number of UBW found in village houses, immediate enforcement actions could lead to widespread opposition from villagers. Since most UBW were structurally safe and seldom give rise to public complaints, she was of the view that the Administration should exercise discretion in dealing with UBW in NT village houses and tolerate UBW which proved to be structurally safe.

50. Ms LI Fung-ying declared that she was a member of HYK and an indigenous villager of NT. She pointed out that due to historical reasons, NT village houses had come under a different regulatory regime. She urged the Administration to adopt a realistic and sympathetic approach in tackling the UBW problem in NT village houses, in particular UBW found in houses built on old schedule lots. She stressed that in taking enforcement actions, the Administration should take note of the complicated situations on ground. For instance, village houses found at the same location could be subject to different policy or legislation, e.g. the Block Government Lease of 1905, BO (Application to NT) Ordinance of 1961 and Small House Policy of 1972. Therefore, removal of UBW could be complicated and difficult. The Administration should act with prudence and flexibility to ensure that the removal operations would be carried out safely and to make proper re-housing arrangements for affected owners/residents. Where possible, the Administration should assist affected villagers to improve their living environment through facilitating redevelopment of the dilapidated houses. She enquired whether the Administration had formulated a comprehensive

plan to deal with UBW in NT village houses and mapped out measures to address the aforesaid issues.

51. SDEV assured members that having regard to the historical background and unique circumstances in NT village houses, the Administration would not adopt an indiscriminate "one fell swoop" approach to handle all UBW in NT village houses. The Administration also would not underestimate the difficulties facing the enforcement against UBW in NT village houses and would act reasonably and legally whilst paying due regard to the individual circumstances of NT village houses. The Administration would adopt a pragmatic approach to deal with UBW through systematic categorization of UBW and prioritization of enforcement actions. Where necessary, the Administration would offer financial and re-housing assistance to affected owners/residents, as well as assist in reconstruction of the houses. Notwithstanding the difficulties ahead, the Administration was determined to enforce existing legislation on UBW in NT village houses. She appealed to members, HYK and indigenous villagers for supporting the Administration's proposed arrangement of enforcement against UBW in NT village houses.

52. Miss Tanya CHAN said that she was shocked by the excesses of the UBW in NT village houses. Bearing in mind the experience of enforcement against UBW in urban areas, which had taken 10 years but still with unsatisfactory results, she recognized that the Administration could encounter even more difficulties in tackling the UBW problem in NT village houses, especially with the strong resistance from indigenous villagers and the difficulties of BD/LandsD staff to gain entry into premises for inspection and taking enforcement actions. She enquired about measures which would be taken by concerned departments in stepping up enforcement actions against UBW in NT village houses, and whether the Administration had devised a time-table and worked out the necessary resources for implementing the proposed arrangement.

53. Ms Audrey EU expressed support for the proposed arrangement of enforcement against UBW in NT village houses in principle, which was a pragmatic approach with enforcement actions to be taken in an orderly and progressive manner. She considered that it had demonstrated the Administration's resolve to tackle the problem and reflected the strong public aspiration for the Administration to treat all UBW in the territory with fairness and on equal footing. In light of the possible strong resentments of indigenous villagers and lack of support from HYK, she asked whether the implementation of the proposed arrangement would be

conditional on HYK's consent and whether new legislation and additional resources were required.

54. SDEV said that past experience revealed that there were difficulties for frontline enforcement staff to gain access into individual houses for inspection of UBW and other building irregularities. As a remedial measure, the Administration would introduce legislative amendments to BO to empower the Building Authority to enter into premises to facilitate enforcement action against UBW through application of a court warrant. The power would be particularly useful for effecting a detailed inspection of UBW. In the meantime, aerial photographs kept by the Administration would also assist in ascertaining the UBW problems. She agreed that the cooperation of HYK, rural committees, village leaders and indigenous villagers would help smoothen implementation. Hence, the Administration would be meeting the relevant stakeholders in the next few months to work out the implementation details. That said, she also highlighted the authority and responsibility of the enforcement agencies to enforce the law. She further advised that the proposed arrangement did not call for enactment of new legislation. As regards the time-table and resources for implementing the proposed arrangement, SDEV said that the Administration would work out the implementation details and the resource requirement over the summer months and should hope to launch the new arrangement within the current term of office.

55. Mr CHAN Kam-lam declared that he was living in NT and his wife was an indigenous villager of NT. He opined that the right of indigenous villagers to construct Small Houses was protected by the Basic Law, and pointed out that due to the presence of two regulatory regimes, it would be inappropriate to make comparison on the Administration's enforcement actions against UBW in the urban areas and those in NT village houses. He remarked that when the Administration said that it would treat NT village houses and buildings in urban areas with fairness and on equal footing, the actual meaning was to place the same emphasis in upholding the building safety and safeguarding public interests.

56. Mr WONG Yung-kan declared that he was an advisor to HYK and was living in a NT village house. He criticized the Administration for failing to implement the recommendations of the Ombudsman's report of 2004 in rationalizing the existing UBW in NT village houses in the past years.

57. SDEV advised that the Administration had been discussing with HYK since 2006 to address the UBW problem through the Working Group.

The matter was escalated to the Secretary for Development -- Heung Yee Kuk Liaison Committee with herself as the chairman after the establishment of the Development Bureau in July 2007. She said that the current proposal was the outcome of extensive in-depth studies and discussions on different options. It also represented a pragmatic and orderly approach in tackling the complicated and long standing UBW problem in NT village houses. She stressed that the issue concerned only illegal buildings and structures. It did not concern ethnicity, nor was the enforcement policy targeted against NT indigenous villagers. She reiterated the sincerity of the Administration to continue the discussion with HYK in taking forward the proposal and working out the details. With HYK's assistance, the Administration would be willing to look into individual cases and consider the needs of owners/tenants where appropriate.

58. While supporting the underlying principles of the Administration's proposal and stressing the need for the Administration to remove UBW not complying with legislation, Mr Frederick FUNG considered it necessary for BD to handle matters with sensitivity and flexibility, especially where the building owners/residents were found to be in genuine difficulties. The Administration should provide assistance to affected owners/residents in the forms of loan, re-housing and redevelopment arrangements, which was important in achieving a "win-win" situation to ensure public safety as well as preserve the heritage of NT villages.

59. SDEV assured members that the Administration would be pragmatic and flexible in rolling out the proposed arrangement. Taking the enforcement of UBW in urban areas as an example, BD would extend the deadline for removal of UBW where the building owners faced genuine difficulties. The Administration would endeavour to provide affected owners/tenants with necessary assistance including financial assistance and re-housing arrangements. The Administration was also exploring ways to assist owners in redeveloping their village houses.

60. Mr Paul TSE declared that he was an indigenous villager of NT and an advisor to HYK. He said that the background of NT village houses related closely to the history of NT which was full of sacrifices from NT villagers. The traditional rights and interests of indigenous villagers were protected by the Basic Law, and such rights and interests should not be overridden by simply applying the principle of fairness and drawing inappropriate comparison between the situations of indigenous villagers of NT and other people of Hong Kong. He opined that the Administration's failure in taking enforcement action against UBW in NT village houses in the past 50 years had caused confusion and misunderstanding to villagers on

the Administration's recent stepped up enforcement. Such prolonged toleration could also have given rise to an estoppel in law. While he supported the proposed registration scheme in principle, he called on the Administration to exercise flexibility in implementing the scheme and be prepared to make compromise, such as granting amnesty for warranted cases involving genuine difficulties for owners to remove UBW. He believed that, in doing so, widespread opposition and open confrontation from villagers could be avoided.

61. SDEV replied that the legal challenge, if raised, would best be settled by the court. As far as the BO (Application to NT) Ordinance, which came into effect on 1 January 1961, was concerned, it was clear that the law covered all building works carried out in NT after that date. The Administration was therefore duty bound to act in compliance with the ordinance in tackling the UBW problem in NT village houses. The fact that the Administration had in the past placed emphasis on enforcement against UBW which constituted an imminent danger to life or property was no reason for not taking enforcement actions against other UBW now.

The proposed registration scheme

62. While supporting the Administration's initiative to take action against those UBW which constituted serious contravention of the law, Mr KAM Nai-wai expressed reservation about the proposal to set up the registration scheme for other UBW found in NT village houses, because the scheme would become a *de facto* amnesty. He was concerned that unlike the current enforcement regime against UBW in urban areas under which BD would register the removal notice on the concerned UBW with the Land Registry ("LR"), the proposed registration scheme would rely on the cooperation of owners to register the UBW with BD, and hence the proposed scheme was against the principle of fairness. Moreover, without registering UBW in NT village houses with LR, it could be difficult for a potential buyer of NT village house to ascertain whether there were UBW in the property in protecting his interests in the transaction. Mr KAM further enquired about the Administration's plan to take enforcement action against unregistered UBW, and whether the Administration would set a deadline for the removal of the registered UBW.

63. SDEV reiterated the need to recognize the bases for the different regulatory framework applicable to NT village houses, particularly of the relatively lower risks to public safety of UBW found in these houses. The same was recognized by the Administration when it introduced the enforcement policy on UBW in 2001. In order to contain the proliferation of

UBW in village houses, the Administration had focused enforcement on UBW posing imminent danger and those caught in the process of construction. Through internal redeployment, BD was now able to extend the scope of its enforcement action. Accordingly, enforcement action targeting at UBW in NT village houses constituting obvious hazard or imminent danger to life and property, UBW under construction or newly completed and those were in serious contravention of the law would be stepped up. SDEV clarified that the proposed registration scheme was not an amnesty, or signify a "silent approval" for UBW. As regards enforcement against "unregistered" UBW and the time-table for removing the "registered" UBW, SDEV said that the proposed registration scheme would provide data and statistics on existing UBW in village houses and enable the Administration to conduct detailed and objective risk assessment, with a view to formulating further plans for progressive removal of the "registered" UBW. Drawing from the experience in the urban areas, it would not be realistic to set a pre-determined time-table at this stage.

64. Mr CHEUNG Hok-ming declared that he was the Vice-chairman of HYK and an indigenous villager of NT. Pointing out that the Administration announced the enforcement policy against UBW in 2001 and revised the policy to step up enforcement action by extending the scope of "actionable" UBW in 2011, he opined that as a matter of fairness, the Administration should undertake not to take enforcement action against UBW registered under the proposed scheme in ten years' time.

65. SDEV said that in view of the unlawful status of the registered UBW, the Administration could not offer any undertaking for withholding enforcement action. However, given the large number involved, the clearance of existing UBW which constituted less serious contravention of the law and imposed lower potential risks was bound to take some time. She reiterated that the proposed registration scheme would provide the Administration with more detailed information on these UBW, thereby facilitating BD to formulate a progressive enforcement plan taking into account factors including, the types and number of the illegal works and their risk level, as well as the availability of manpower and financial resources.

66. Mr LEE Wing-tat expressed concern about unfair treatment of UBW found in buildings in urban areas and those found in NT village houses as building owners in urban areas were required to remove UBW while those of NT village houses were allowed to retain their UBW for an indefinite period of time through the proposed registration scheme. He remarked that a plan without a clear time-table was unrealistic. He questioned the

rationale for allowing registration of unauthorized rooftop structures in NT village houses covering no more than 50% of the roofed-over area of the main building, and raised query over the reason for not allowing the same in the urban areas. The proposed registration scheme for UBW in NT village houses had demonstrated unfair treatment to UBW in the urban areas and had sent a wrong message to building owners that the Administration would tolerate UBW instead of taking enforcement actions in compliance with existing legislation. There would be stronger resistance from NT village house owners when the Administration announced the deadline for removing the "registered" UBW, and this would lead to widespread "non-cooperative" actions from indigenous villagers of NT.

67. SDEV re-iterated the principle of fairness in dealing with UBW in the urban areas and in NT, particularly in regard to the consideration of protecting building and public safety and the application of a common yardstick for objective risk assessment. She also highlighted the need to recognize the reality of two different regulatory regimes in existence, the different designs of the buildings and their relative impact on safety; and hence the different starting point for action. Compared to the urban areas where the Administration had removed over 400 000 UBW over the past ten years, the strengthening of enforcement against UBW in NT village houses was a more recent initiative. In light of the limited impact of prosecution action alone, the Administration would adopt a more proactive and effective approach by arranging, as may be necessary, the removal works on behalf of owners and charge them for the costs incurred. With a view to preventing the proliferation of UBW in a last minute rush before implementation of the new arrangement, the Administration would enhance enforcement actions against new UBW and UBW in progress and, if necessary, arrange for the taking of aerial photos to establish a baseline for future reference. Given the complexity of the issues involved, it was envisaged that the Administration would need some time to formulate a comprehensive work plan and devise a realistic time-table for dealing with UBW in NT village houses. She assured members that the Administration would continue to work closely with local residents, rural committees and HYK etc. to enlist their support for the proposed scheme.

68. Mr James TO considered the proposed arrangement fair and appropriate. He asked whether the Administration would launch a large scale operation against the UBW listed in Annex I of the Administration's paper (i.e. those not posing imminent danger but constituting serious contravention of the law and imposing higher potential risks) and, similar to the practice in the urban areas, arrange for registration of the removal orders at LR, thus "imposing an encumbrance" on the property and safeguarding

the interest of buyers of NT village houses. Mr KAM Nai-wai expressed similar views. He said that as a deterrent, the Administration should register all UBW in NT village houses with LR and promulgate a clear time-table for their removal.

69. SDEV clarified that, at present, BD would register a removal order on UBW in a NT village house at LR if the order was not complied with by a specified deadline. As regards the suggestion to register all "registered UBW" in village houses at LR, she said that it was necessary to consider the possible drawbacks including deterring owners of village houses to come forward to register their UBW with the Administration.

70. Mr James TO asked whether the scope of the proposed registration scheme would cover those UBW listed in Annex 1 of the Administration's paper. Director of Buildings advised that UBW in Annex 1 would be the targets of the first round of Administration's enforcement action against UBW not posing imminent danger. BD would issue removal orders for the concerned UBW and arrange the registration of the removal orders at LR. UBW in this category therefore would not be covered under the proposed registration scheme.

71. Noting from paragraph 37 of the Administration's paper that the Administration would announce a "specified date" and any UBW completed before the date would be defined as "existing" UBW eligible for consideration of registration under the proposed registration scheme, Mr WONG Kwok-hing asked whether the Administration had worked out the "specified date" and the basis for determining the date. He considered that the Administration should register UBW proactively rather than waiting for the owners to report on their UBW. He urged the Administration to establish a comprehensive data base and analyze the relevant data thoroughly before implementing the proposed registration scheme. The Administration should also provide all possible assistance to affected owners/residents of village houses.

72. In response, SDEV said that in order to prevent a surge of new UBW before the implementation of the proposed registration scheme and to forestall attempts to beat the deadline, the "specified date" would be a prescribed date in the past. The Administration would discuss with HYK in working out the "specified date". She supplemented that, considering the sentiments of those likely to be affected, the "specified date" would not be too far in the past and might, as appropriate, be six or 12 months before the implementation of the proposed registration scheme.

73. Mr Albert CHAN declared that his wife was an owner of a NT village house. He criticized that the proposed registration scheme was unreasonable, without sound legal bases, and failed to take care of feelings of building owners in the urban areas. While UBW in village houses would be protected under the proposed registration scheme, owners of rooftop UBW found in urban areas and built-up areas in NT were unable to enjoy the same treatment notwithstanding the fact that many owners had acquired their structures through lawful means, and were paying rates to the Government. As revealed in the judgement of a judicial review case between the Building Authority (as the Applicant) and the Appeal Tribunal (Building) (as the Respondent)/SIU Kwok Wah (as the Interested Party) in June 2005, illegal structures on rooftops erected before the date of 27 February 1975 in NT's built up areas had been granted an amnesty. Yet, with effect from 1 April 2011, these structures, similar to UBW in urban areas, were subject to enhanced enforcement actions of BD. For the sake of fairness, he urged the Administration to extend the proposed registration scheme for UBW in NT village houses to UBW in other areas. Mr CHAN also queried the rationale and legality of the proposed registration scheme as the scheme seemed to impose sanction on law-abiding people and was incompatible with the spirit of the rule of law.

74. SDEV advised that illegal rooftop structures irrespective of whether they were found in urban areas or built-up areas of NT, were UBW and were imposing high potential fire hazards to buildings and residents therein. Hence, the Administration had taken determined action to remove some 10 000 illegal rooftop structures in single-staircase buildings in the past ten years. To address the community's aspiration for adopting a tougher stance against non-compliant owners with a view to enhancing the deterrent effect, the Administration had initiated vigorous enforcement actions against UBW in urban areas since 1 April 2011. Instead of focusing on high-priority items under the ten-year programme, the Administration had extended the scope of "actionable" UBW to cover UBW in roof-tops, podiums, as well as yards and back-lanes of buildings. She hoped that members would appreciate that the proposed registration system was a fair and pragmatic means for resolving the UBW problem in NT village houses taking into account the existing regulatory regime and historical background of village houses. She assured members that with the formulation of a basis for enforcement actions, the Administration would continue to liaise closely with HYK with a view to mapping out a feasible work plan. Mr Albert CHAN remained unconvinced and maintained that rooftop structures in urban areas with no imminent danger should be tolerated under a similar registration scheme.

Village houses on old schedule lots

75. Mr LAU Wong-fat declared that he was an indigenous villager of NT and the Chairman of HYK. He said that the Administration's plan to step up enforcement against UBW in NT village houses had generated tremendous hardship for indigenous villagers. He pointed out that the main problem at present was related to village houses built on old schedule lots, some of which had a long history dating back to the Sung Dynasty. In 1898, the British Government occupied NT and took away the land from indigenous villagers. As an extremely unfair arrangement, the Block Government Lease of 1905 turned indigenous villagers from land owners to tenants. He remarked that unlike buildings in urban areas or village houses built under the Small House Policy, village houses on old schedule lots were not subject to any building restrictions. HYK was initiating a judicial review to clarify this point. He added that all along, the indigenous villagers had difficulties in understanding BO (Application to NT) Ordinance which was enacted 50 years ago in English alone and forced upon the villagers by the Government unilaterally. He disagreed that village houses in excess of three storeys would pose structural problem, and he had not come across any case involving the collapse of village houses more than three storeys. It should be noted that for a long period of time, BD and LandsD had taken no actions on village houses exceeding three storeys in the old schedule lots. This had constituted a "silent consent" for such village houses, and the Administration's inaction in the past years had led to the present problem. Given the above circumstances, it would be unfair for the Administration to step up enforcement actions against NT village houses and place the blame entirely on NT villagers. He said that due to the growth in population over the years, there was pressing need for the Administration to address the housing problem of indigenous villagers. He urged the Administration to withhold enforcement actions against UBW in NT village houses for the time being, pending clarification on legal issues relating to restrictions on buildings on old schedule lots. He believed that the Administration should tackle the UBW problem in a prudent manner with due regard to the principles of ensuring legality, reasonableness, and sympathizing the situations of villagers.

76. SDEV advised that the Administration had been taking enforcement actions against UBW in village houses over the years. The enforcement policy formulated in 2001 placed special emphasis on UBW constituting obvious hazards and imminent danger to life and property, and those with works in progress. From 2008 to 2010, BD received a total of 5 269 complaints about UBW in NT village houses. Of these, 3 288 cases after investigation were found outside the targets for immediate

enforcement action. As for the remaining 1 981 complaints, 619 cases were confirmed to be "works in progress", and enforcement actions were therefore taken. Among the 619 cases, owners in 27 cases had taken the initiative to remove the UBW themselves. BD had issued removal orders to the owners of the remaining 592 cases, requiring them to remove the UBW in question by a specified deadline. Over the same period, BD had instituted prosecution in 327 cases. Sanction on convicted cases included fines imposed on owners at the average of \$1,000 to \$2,000.

77. Director of Lands supplemented that in order to be exempted from the regulation of BO, NT exempted houses ("NTEHs") were required to be built in compliance with the specifications in terms of height and area as specified under BO (Application to NT) Ordinance. Those exceeding the prescribed limits would not be eligible for the exemption and would be subject to BO. Between 2007 and 2010, LandsD received a total of 2 161 complaints about NTEHs breaching the lease conditions. As at March 2011, the lot owners concerned had purged the breaches involved in 118 of such complaints. The Administration had issued warning letters to the owners involved in 1 147 of such complaints and registered the letters at LR. Action to handle 888 of the complaints was in progress while no action was required of the eight remaining complaints. She added that the above figures included both houses granted under Small House Policy and other NTEHs on old schedule lots. SDEV said that although the Administration did not subscribe to HYK's view on village houses built on old schedule lots, it would respect HYK's action to clarify legal issues relating to the matter with the court. The Administration would act in accordance with the law and follow the established procedures in dealing with the matter.

78. Mr IP Kwok-him pointed out that UBW problem in NT village houses involved complicated issues, and cautioned that the Administration should act in a prudent and progressive manner in handling the matter. Further, he suggested that the Administration should seek legal advice to clarify the regulation of building works in village houses built on old schedule lots before taking forward the proposed arrangement on UBW in NT village houses.

79. SDEV maintained the view that BO (Application to NT) Ordinance, which came into effect on 1 January 1961, covered all building works (including reconstruction works) carried out in NT after that date. The ordinance had clearly prescribed the exemption for village houses which met the stated specifications. Hence, the ordinance was applicable to village houses built on old schedule lots.

80. Pointing out that the Administration had not taken effective enforcement actions under BO (Application to NT) Ordinance in the past 50 years, Mr CHAN Kam-lam criticized the Administration for using 1 January 1961, the date on which the ordinance came into effect, as the relevant date for enforcing the regulation on village houses built on old schedule lots. He was worried that the Administration's enforcement actions against NT village houses, in particular, those built in old schedule lots, would meet with strong opposition from NT villagers. He urged the Administration to resolve the problem through discussion with HYK with a view to working out a feasible solution which was legal, reasonable and sympathizing the feelings of NT villagers. He suggested that the Administration should conduct an in-depth study on the situations of owners/tenants of village houses in old schedule lots, such as the number and their financial positions. He acknowledged that UBW in NT village houses involved a historical problem, and believed that it was necessary to seek clarification from court on the application of BO (Application to NT) Ordinance on height limit for village houses on old schedule lots. The Administration should also consider allowing owners/residents to retain the unauthorized structures through the payment of a premium.

81. The Chairman said that it would be desirable for the Administration to seek legal advice as soon as practicable regarding the application of relevant building ordinances to village houses granted under the Block Government Lease as the Administration and HYK had different interpretation on Article 40 of the Basic Law and building height restriction on houses on old schedule lots. Mr Albert CHAN considered it necessary for the Administration to seek legal advice on the applicability of building restrictions on village houses as provided in BO (Application to NT) Ordinance to those houses erected on old schedule lots.

Redevelopment of NT village houses

82. Mr CHEUNG Hok-ming pointed out that due to shortage of land for building Small Houses and other historical reasons, many families of the indigenous villagers were forced to construct additional floors to their existing Small Houses. He asked whether the Administration had taken any action against NT village houses built on old schedule lots, and enquired about the feasibility for owners of Small Houses to pay a land premium for turning existing additional floors into legal premises, or building new floors to meet their needs.

83. On the suggestion for the Administration to consider applications from indigenous villagers to increase the height of their village houses,

SDEV and the Permanent Secretary for Development (Planning and Lands) advised that such applications had to be considered on a case-by-case basis and would depend on the circumstances of individual cases, including the lease conditions of the relevant lot, planning parameters in the relevant Outline Zoning Plans and the views of the Town Planning Board.

84. Echoing Mr CHEUNG Hok-ming's views, Mr WONG Yung-kan opined that the Administration should facilitate the redevelopment of village houses, and believed that concerned owners were willing to pay land premium for redeveloping their village houses. He urged that indigenous villagers should not be regarded as a "privileged class" and "local tyrants". The Administration should continue to communicate with HYK in working out a solution to tackle the UBW problem in line with the principles of ensuring legality and reasonableness, and sympathizing the situations of NT villagers.

85. The Chairman declared that he was an advisor to HYK. He said that through his researches on village development and buildings in traditional villages in NT, he considered it necessary for the Administration to preserve the structures and the cultural heritage of villages. Referring to a recent visit to Tung Tau Tsuen in Yuen Long, he was of the view that the parameter of setting 300 feet as the village environs for the construction of Small House/NTEHs had become unrealistic. Due to the shortage of land for building Small Houses and coupled with the growth in population of indigenous villagers, village house owners were forced to construct additional storeys in their houses, thereby leading to proliferation of UBW. In this respect, he was pleased to note that the Administration was willing to explore redevelopment of village houses in meeting the present-day needs of villagers.

Follow-up by the Administration

86. Mr LEE Wing-tat re-iterated that adequate resources should be deployed to establish a comprehensive data base on UBW in NT village houses and the Administration should employ more contract staff to cope with the increasing workload generated for relevant departments. To monitor the progress of the proposed arrangement on enforcement against UBW in NT village houses and the proposed registration scheme, he requested the Administration to make regular progress report on the matter to the Panel.

87. SDEV said that the Administration would consider the views and suggestions made by members. The Administration would also study the

feasibility of the proposal to register all UBW in NT village houses with LR. The Administration would set a time limit for the registration of UBW constituting less serious contravention of the law and imposing lower potential risks. It was necessary to examine the resources implication of the proposed registration scheme on the Administration as well as the cost implication of the requirement for owners to appoint qualified professionals to verify structural safety of UBW before consideration would be given to register these structures. She explained that there were genuine grounds for the Administration to accord a higher priority to tackle UBW in urban areas. The Administration would formulate manpower plans to cope with additional workload arising from various new tasks in relation to tackling the UBW problem in NT village houses and in the urban areas. She advised that due to resources constrains, the Administration could not conduct inspection to identify all UBW in the territory, and believed that enhanced public education and following up on complaints from the public would help alleviate the UBW problem and enable more effective enforcement actions. The Administration would meet with HYK in July 2011 to discuss the details of the proposed arrangement on enforcement against UBW and the proposed registration scheme. The discussion would help map out the implementation details of the new arrangements and the scheme. The Administration would revert to the Panel later in the year, and would consider providing further progress reports on the matter to the Panel when necessary.

88. The Chairman proposed and members agreed that the meeting be extended for 15 minutes to finish the businesses on the agenda.

VI Amalgamation of Construction Industry Council and Construction Workers Registration Authority

(LC Paper No. CB(1)2530/10-11(08) -- Administration's paper on proposed amendments to the Construction Industry Council Ordinance and Construction Workers Registration Ordinance

LC Paper No. CB(1)2530/10-11(09) -- Paper on amalgamation of Construction Industry Council and Construction Workers Registration Authority prepared by the Legislative Council Secretariat (Background brief))

89. Members noted that the paper provided by the Administration was on proposed amendments to the Construction Industry Council Ordinance ("CICO") and Construction Workers Registration Ordinance ("CWRO") which aimed to facilitate the amalgamation of the Construction Industry Council ("CIC") and the Construction Workers Registration Authority ("CWRA") to form a new CIC and introduce other streamlining measures. Mr LEE Wing-tat said that he supported the proposals in the paper in principle.

Streamlining operational efficiency

90. Ms Cyd Ho noted from paragraph 11 of the Administration's paper that the Administration had proposed to amend CICO and CWRO with a view to streamlining the operational efficiency of the new CIC as the existing administrative procedures laid down in the two ordinances were too restrictive. One of the proposals was to allow the new CIC to delegate to its employees and committees the power to enter into contracts or assignments of more minor or routine nature. Ms HO requested the Administration to elaborate on these contracts or assignments.

91. Chief Assistant Secretary (Works)6/Development Bureau ("CAS(Works)6/DEVB") explained that under CICO, CIC was empowered to enter into contracts or assignments but there was no provision for CIC to delegate its authority in this aspect. As a result, all contracts or assignments, regardless of their scales or value, had to be deliberated and approved by CIC itself at a board meeting. The proposed amendments aimed to delegate the new CIC's power for entering into contracts to its committees or employees. Deputy Secretary (Works)2/Development Bureau ("DS(Works)2/DEVB") added that the proposal would enhance operational efficiency of the new CIC in future.

92. Referring to the proposed amendment to CICO to remove the requirement for CIC to seek the approval of the Financial Secretary ("FS") for arranging fixed deposits, Ms Cyd HO said that while she agreed that there was no need to seek FS' approval for making a fixed deposit in a bank as such an investment would involve low risk, she was concerned whether there would be sufficient monitoring on CIC's financial management, including the relevant control mechanisms on investment and approval of expenditure items.

93. DS(Works)2/DEVB advised that the proposed amendment only sought to remove the requirement for seeking FS' approval for making fixed

deposits in order to enhance corporate efficiency. Other requirements in respect of utilization of funds of CIC would remain unchanged. As regards cancellation of fixed deposits, there was no provision in the existing CICO to require FS' approval. He stressed that members of CIC, who represented various sectors, exercised vigilant control of the financial affairs of CIC.

Stage 2 legislative amendments

94. Ms Cyd HO expressed concern on the large time gap between the introduction of Stage 1 and Stage 2 legislative amendments. According to the Administration's plan, Stage 1 amendments, which involved legislative amendments for the amalgamation of CIC and CWRA, streamlining operational efficiency of the amalgamated body, and allowing the future construction workers registration card to store and display information of other construction-related cards/certificates issued by other authorities, would be introduced into LegCo before the end of 2011. Whereas Stage 2 amendments, which would facilitate the implementation of Phase Two Prohibition under CWRO ("Phase Two Prohibition"), would be introduced in the fourth quarter of 2013. She enquired about the reason for introducing Stage 2 amendments at such a late stage.

95. DS(Works)2/DEVB explained that while there was consensus in the construction industry to proceed with Stage 1 legislative amendments, contacts and discussions with the construction industry on the proposals put forward in Stage 2 legislative amendments suggested that more time was needed to work out issues related to Phase Two Prohibition. He explained that Phase Two Prohibition would disallow construction workers to undertake works except those trades they had been registered for. Problems envisaged for implementation of Phase Two Prohibition included difficulties for workers currently undertaking only limited scope for a specific trade to pass the trade test for registration, as well as for those undertaking minor works, maintenance works or small scale ancillary works to obtain registration for the relevant trades. The Administration had started discussions with labour unions on how to tackle these issues. As Phase Two Prohibition would cover more than 90 trades and complicated issues were involved, a large-scale consultation involving a great number of labour unions and trade associations would be necessary to work out feasible options so that that the work prospects of experienced construction workers who had difficulty in obtaining the necessary trade registrations would not be adversely affected. While the Administration expected that understanding among various stakeholders on the general direction for the implementation of Phase Two Prohibition might be obtained before end of 2011, it envisaged that the deliberation on implementation details would

take one to two years. Therefore, Stage 2 legislative amendments would not be ready until late 2013. The Administration was working in full speed with the construction industry in preparing Stage 2 legislative amendments with a view to introducing them into LegCo as soon as possible.

96. Ms Cyd HO took note of the Administration's explanation. She agreed that Stage 2 legislative amendments, which would have far reaching impacts on the training, accreditation of qualifications and registration of construction workers, should be prepared in full consultation with the construction industry and take reasonable time. She strongly recommended that in the process of consultation the Administration should explain the changes to workers to facilitate their understanding.

97. The Chairman concluded the discussion on this item. Members supported that Stage 1 legislative amendments to CICO and CWRO be introduced into LegCo.

VII Any other business

98. There being no other business, the meeting ended at 6:43 pm.