

立法會

Legislative Council

LC Paper No. CB(1) 2312/01-02
(These minutes have been seen
by the Administration)

Ref : CB1/BC/14/00/2

Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2001

Minutes of sixth meeting held on Monday, 8 July 2002, at 10:45 am in Conference Room B of the Legislative Council Building

Members present : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon James TO Kun-sun
Hon HUI Cheung-ching, JP
Hon CHAN Kam-lam, JP
Hon TAM Yiu-chung, GBS, JP
Hon Albert CHAN Wai-yip

Member absent : Hon LAU Ping-cheung

Public officers attending : Housing, Planning and Lands Bureau

Ms Elaine CHUNG
Deputy Secretary for Housing

Ms Ophelia TSANG Oi-lin
Representative (Housing)

Department of Justice

Ms Mabel CHEUNG
Government Counsel

Rating and Valuation Department

Mr WONG Chun-siu, JP
Deputy Commissioner

Mr SIU Kuen-sang
Acting Assistant Commissioner
(Rent Control and Special Duties)

Mr LAM Kin-ha
Principal Valuation Surveyor

Mr CHAN Kwok-fan
Senior Rent Officer

Clerk in attendance : Miss Becky YU
Chief Assistant Secretary (1)1

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mrs Mary TANG
Senior Assistant Secretary (1)2

I Confirmation of minutes of previous meeting

(LC Paper No. CB(1) 2190/01-02 — Minutes of the meeting held on
10 June 2002)

The minutes of the meeting held on 10 June 2002 were confirmed.

II Meeting with the Administration

(LC Paper No. CB(1) 1528/01-02(05) — List of follow-up actions arising
from the discussion on 6
March 2002

LC Paper No. CB(1) 1528/01-02(06) — Administration's response to
CB(1) 1528/01-02(05)

LC Paper No. CB(1) 1744/01-02(01) — List of follow-up actions arising
from the discussion on
19 April 2002

LC Paper No. CB(1) 1744/01-02(02) — Administration's response to
CB(1) 1744/01-02(01)

LC Paper No. CB(1) 1945/01-02(02) — Administration's response to CB(1) 1945/01-02(01))

LC Paper No. CB(1) 2207/01-02(01) — List of follow-up actions arising from the discussion on 10 June 2002

LC Paper No. CB(1) 2207/01-02(02) — Administration's response to CB(1) 2207/01-02(01))

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

3. The Administration was requested to -

- (a) advise the increase in the number of claims for interest in respect of rent in arrears by landlords in proceedings for recovery of rent as a result of advice given by staff of the Rating and Valuation Department (RVD);
- (b) advise the compliance rate whereby repossession of premises could be completed within 103 days;
- (c) provide the required manpower and financial resources to the Lands Tribunal with a view to expediting the repossession procedures;
- (d) re-consider the feasibility of imposing criminal liability on the provision of false information by tenants (namely, their names, income/occupation and past tenancy records) and seek legal advice on whether such a Committee Stage amendment fell outside the scope of the Bill;
- (e) consider vesting RVD with the power to deal with tenancy disputes not exceeding a prescribed amount of money as in the case of labour disputes by the Labour Department;
- (f) ask the Police to update its internal guidelines on handling of landlord and tenant disputes taking into account the Bill and members' concerns; and
- (g) The Administration to provide VCD on rental and repossession procedures for members' reference.

4. There being no other business, the meeting ended at 12:40 pm.

**Proceedings of the meeting of the
Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2001
Meeting on Monday, 8 July 2002, at 10:45 am.
in Conference Room B of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000200	Chairman Mr TAM Yiu-chung Mr HUI Cheung-ching	Confirmation of minutes of meeting held on 10 June 2002 (LC Paper No. CB(1) 2190/01-02) and schedule of meetings for July 2002	
000200 - 001120	Chairman Administration Mr TAM Yiu-chung	Discussion on the reply to question no. 17 raised by Mr TAM Yiu-chung at the Council meeting on 26 June 2002. Briefing by the Administration on the changes in residential housing market since rent controls were introduced in 1981 and its plan to conduct a comprehensive review of the security of tenure provisions under the Landlord and Tenant (Consolidation) Ordinance (LTO)	
001120 - 001355	Mr Albert CHAN Chairman Mr TAM Yiu-chung	Discussion on whether the subject should be dealt with by the Housing Panel rather than the Bills Committee	
001355 - 001530	Administration Mr TAM Yiu-chung Chairman	Members were informed that the purpose of the Bill was to streamline statutory repossession procedures and improve operation of LTO as a first step. A comprehensive	

		review of the security of tenure provisions under LTO would be conducted as a second step with a view to minimizing intervention in tenancy matters	
001530 - 001854	Chairman Administration Mr James TO	Discussion on security of tenure and its implications on the sale of mortgaged properties	
001854 - 001905	Mr James TO	The comprehensive review of the security of tenure provisions under LTO should be conducted after the Bill had been implemented for a period of time	
001905 - 002026	Administration Chairman Mr James TO Mr HUI Cheung-ching Mr TAM Yiu-chung	The comprehensive review of the security of tenure provisions under LTO would have serious implications and should be carefully considered by the Housing Panel	
002026 - 002036	Chairman	Discussion on LC Paper No CB(1)1528/01-02(05)	
002036 - 002524	Administration Chairman Mr James TO	Item 1 - To seek advice on whether licence agreements with provisions similar to tenancy agreements should be treated as tenancy agreements and whether the Administration would consider including licence agreements under Part V of LTO	
002524 - 002530	Chairman Administration	Item 2 - To consider whether a definition of unauthorized building works (UBWs)	

		should be included in the Bill to avoid possible disputes in the event of repossession of premises due to erection of UBWs	
002612 - 002637	Chairman Administration	Item 3 - To consider whether the proposed implied forfeiture clause in the lease for repossession of premises as a result of UBWs should apply to UBWs constructed before the new Ordinance comes into effect Item 4 - To consider including in the Bill a provision to require landlords to remove any UBWs before letting out of the premises	
002637 - 002830	Administration Chairman Mr James TIEN	Item 5 - To consider whether interest should be charged on rent in arrears during the proposed seven-day relief period. Consideration should also be given to imposing a fixed interest rate or a surcharge of certain percentage of the rent in arrears as a deterrent for default in payment of rent	
002951 - 003355	Administration Mr James TIEN Chairman	Discussion on sections 48 and 49 of the High Court Ordinance on the charging of interest on rent in arrears before and after date of judgement	
003355 - 003449	Mr James TIEN Mr TAM Yiu-chung Chairman	Concerned that current post-judgement interest rate of 8.14% was too low, and that	

		some owners might not be aware of their rights to claim interest on rent in arrears	
003649 - 003722	Administration	Staff of Rating and Valuation Department (RVD) deployed at the Lands Tribunal (LT) would advise landlords of their rights and obligations	The Administration to advise the increase in number of claims for interest in respect of rent in arrears by landlords in proceedings for recovery of rent as a result of advice given by staff of RVD
003722 - 003731	Administration	Item 6 - To list out all the options, including distress for rent, and the respective lead times through which landlords could recover rent in arrears or even repossess the premises	
003904 - 004603	Mr CHAN Kam-lam Administration Chairman	Comparison on application procedures, lead times and fees for repossession of premises at LT and other courts	
004603 - 004833	Chairman Mr James TIEN	Concern about the long lead times for repossession of premises where opposition was filed and that the Bill was only able to shorten the repossession process by 21 days through a shortened relief period	The Administration to advise the compliance rate whereby repossession of premises could be completed within 103 days
004833 - 004953	Mr CHAN Kam-lam Administration	Discussion on the provision of additional resources to the Judiciary so that the legislative intent of streamlining repossession procedures could be achieved	

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004953 - 005028	Mr James TIEN	Enquiry on whether a Committee Stage Amendment (CSA) proposed by members to reduce the lead time for repossession of premises would have charging effect	
005028 - 005124	SALA2	Members could propose a CSA to reduce the lead time for repossession of premises subject to practicability of the said proposal. Proposed CSA unlikely to have charging effect	
005124 - 005510	Mr James TIEN Administration Chairman	Discussion on measures to expedite repossession procedures	
005510 - 005727	Administration	The comprehensive review of the security of tenure provisions under LTO to be conducted after the passage of the Bill would provide more balanced protection for both landlords and tenants	
005927 - 010317	Chairman Mr James TIEN	Need for a fast-track approach for repossession of premises for non-payment of rent	
010317 - 010354	SALA2 Mr James TIEN Chairman	Need to seek advice from the Judiciary on the practicability of shortening the lead time for repossession of premises	The Clerk to refer the matter to the Administration of Justice and Legal Services Panel for follow up
010354 - 011148	Chairman Administration	Item 9 - To re-examine the feasibility of imposing a	

	Mr James TIEN	criminal offence for tenants who provided false information to the landlords as a deterrent to professional tenants and those who used the premises for illegal purposes, without prejudicing the interest of other law-abiding tenants (Cross-referencing item 2 of LC Paper No CB(1) 1945/01-02)	
011148 - 011421	Mr Albert CHAN Administration Chairman Mr HUI Cheung-ching	Discussion on the provision of name, occupation and past rental records on a voluntary basis by prospective tenants and the imposition of criminal offence for false information	
011421 - 011716	Administration	The comprehensive review would take into account the provision of false information by tenants	
011716 - 011820	Mr Albert CHAN SALA2	Discussion on the possibility of introducing CSAs on the provision of false information by tenants	
011820 - 011846	Mr TAM Yiu-chung	Provision of criminal offence would deter tenants from giving false information	
011846 - 011955	Chairman Administration	Members to consult their respective parties on the need for introduction of criminal offence under the Bill for provision of false information in securing tenancies	The Administration to re-consider the feasibility of imposing criminal liability on the provision of false information by tenants and seek legal advice on whether such a CSA fell outside the

			scope of the Bill
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012005 - 012232	Mr CHAN Kam-lam Mr Albert CHAN Chairman Administration	Civil remedies by landlords for claims in tort	
012232 - 012337	Mr CHAN Kam-lam	The Bill should be able to achieve its intended effect of providing protection for both landlords and tenants and need not await the outcome of the comprehensive review	
012337 - 012539	Chairman Administration	Item10 - To consider enhancing the role of the Landlord and Tenant Services Division (LTSD) of RVD, such as making it a quasi- judicial body, to deal with rental disputes without going to court	
012539 - 012854	Mr TAM Yiu-chung Chairman Administration Mr CHAN Kam-lam	RVD to be vested with power to deal with tenancy disputes, so that it could assume a similar role as the Labour Department in dealing with labour disputes	The Administration to consider vesting RVD with the power to deal with tenancy disputes not exceeding a prescribed amount of money as in the case of labour disputes by the Labour Department
013125 - 013138	Chairman	Item 11 - To step up publicity on the services of LTSD	
013138 - 013238	Administration Mr CHAN Kam-lam Chairman	Video compact disc (VCD) on rental and repossession procedures	The Administration to provide VCD on rental and repossession procedures for members' reference

013319 - 013623	Mr Albert CHAN Chairman	Discussion on whether licence agreements with provisions similar to tenancy agreements should be treated as tenancy agreements	
013623 - 013710	Chairman	Reference to be made to past court cases where licence agreements were regarded as tenancy agreements	
013710 - 013754	Mr Albert CHAN	Concern about unfair terms of licence agreements	
013803 - 013853	Mr CHAN Kam-lam	Tenants should not enter into licence agreements which were unfair	
013853 - 013930	Administration	The comprehensive review would take into account security of tenure under Part IV of LTO	
013930 - 014130	Mr TAM Yiu-chung Chairman Mr CHAN Kam-lam	Measures to assist tenants who were affected by unfair provisions in licence agreements	
014130 - 014440	Chairman Mr Albert CHAN Mr TAM Yiu-chung	Licence agreements to be looked into in the comprehensive review	
014440 - 014915	Chairman Mr Albert CHAN Mr TAM Yiu-chung Mr CHAN Kam-lam	Schedule of meetings for July 2002	
014915 - 015013	Chairman	Next meeting to discuss items 1, 4, 6 to 10 of L C Paper No. CB(1) 1945/01-02	

015013 - 015034	Administration	Police Order on handling of landlord and tenant disputes (Annex to LC Paper No CB(1) 1945/01-02)	The Administration to ask the Police to update its internal guidelines on handling of landlord and tenant disputes taking into account the Bill and members' concerns
015034 - 015208	Chairman Mr Albert CHAN	Need to invite the Police to attend next meeting on 16 July 2002	The Administration to invite the Police to attend next meeting on 16 July 2002 to exchange views on handling of tenancy disputes

Note: The audio records of the above proceedings are kept at the LegCo Library

Legislative Council Secretariat

22 July 2002