

立法會
Legislative Council

LC Paper No. CB(1) 2370/01-02
(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 seventh meeting held on
Tuesday, 16 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 TO Kun-sun
Hon HUI Cheung-ching, JP
Hon CHAN Kam-lam, JP
Hon Albert CHAN Wai-yip

Members absent : Hon James TIEN Pei-chun, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LAU Ping-cheung

Public officers attending : Housing, Planning and Lands Bureau

Ms Ophelia TSANG Oi-lin
Representative (Housing)

Miss Drew LAI Sai-ming
Representative (Housing)

Department of Justice

Mr G A FOX
Senior Assistant Law Draftsman

Ms Grace LEUNG
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

Hong Kong Police Force

Mr MA Wai-luk
Acting Chief Superintendent (Crime) (HQ)

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 Meeting with the Administration

(LC Paper No. CB(1) 2284/01-02(01) — List of follow-up actions arising from the discussion on 8 July 2002

LC Paper No. CB(1) 2284/01-02(02) — Administration's response to CB(1) 2284/01-02(01)

LC Paper No. CB(1) 1945/01-02(01) — List of follow-up actions arising from the discussion on 17 May 2002

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)
- LC Paper No. CB(1) 2281/01-02 — A VCD on the work of the
Landlord and Tenant Services
Division of the Rating and
Valuation Department)

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

2. The Committee deliberated (Index of proceedings attached at **Annex A**).
3. The Administration was requested to -
 - (a) explain in detail why a Committee Stage amendment (CSA) to effect the proposal of imposing criminal liability on the provision of false information by tenants was outside the scope of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (LTO);
 - (b) ask the Judiciary Administrator to consider including in Form 22 (Notice of application under LTO) applications for distress for rent, interest for rent in arrears and disposal of properties left in premises by tenants;
 - (c) prepare a CSA to reflect the legislative intent of forbidding a tenant to be granted relief from forfeiture upon non-payment of rent more than once per tenancy unless with good cause as determined by the Court;
 - (d) refine the drafting of the CSAs to clause 11(3)(b), (c), (d) and (4)(a) to ensure that the proposed forfeiture clauses were consistent with the provisions in the tenancy agreements concerned; and
 - (e) advise the legislative intent of clause 11(4)(b) of the CSA and the different timeframes for relief under the Conveyancing and Property Ordinance (Cap. 219).
4. There being no other business, the meeting ended at 12:45 pm.

**Proceedings of the meeting of the
Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2001
Meeting on Tuesday, 16 July 2002, at 10:45 am
in Conference Room B of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000702	Chairman Police	Discussion on the internal guidelines of the Police on the handling of disputes between landlords and tenants at the Annex to LC Paper No. CB(1) 1945/01-02(02)	
000702 - 000823	Mr Albert CHAN	Notwithstanding para.10 of the internal guidelines which stated that the Police should not intervene in any dispute between landlords and tenants except where a breach of peace or a criminal offence was involved, it was pointed out that no Police action had been taken despite the occurrence of criminal offences	
000823 - 000946	Police	Police action was subject to individual circumstances	
000946 - 001153	Mr Albert CHAN	General assumption by Police that disputes between landlords and tenants were civil matters. Reluctance on the part of Police to take action against cases which were apparently criminal in nature	

001153 - 001213	Police	Matter to be looked into	
001213 - 001701	Mr CHAN Kam-lam Police Chairman	Discussion on the concern about Police inaction against criminal damage of tenanted premises by rogue tenants and the need for Police intervention	
001701 - 001923	Mr James TO	Reference made to para.16 of internal guidelines on the exclusion of sub-tenants from protection against harassment	
001923 - 002419	SALA2 Chairman Administration	Discussion on section 70B of Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (LTO) and new section 119V of the Bill, both of which covered protection for sub-tenants against harassment	
002419 - 002800	Chairman Mr Albert CHAN	Feasibility of imposing criminal liability on the provision of false information by tenants without mandating the provision of such information	
002800 - 002926	Police	Imposition of criminal liability on the provision of false information by tenants would make it easier for Police to take enforcement action	

002926 - 003054	Mr Albert CHAN	Legislative provision to be introduced to facilitate Police to take action against illegal usage of premises (e.g. vice dens) which were rented by tenants through the giving of false information	
003054 - 003110	Administration	Whether action could be effectively taken would depend on the way that the provision was drafted	
003110 - 003311	Mr CHAN Kam-lam	Concerned that if the provision of information was not mandatory, it was unlikely that tenants would voluntarily provide any information to landlords in fear of any subsequent criminal liability. Concerns were also raised on the possible contravention of the Personal Data (Privacy) Ordinance (PDPO) by requesting tenants to provide information such as past tenancy records	
003311 - 003425	Chairman	PDPO did not prohibit mandatory requirement for disclosure of personal data under another ordinance as long as it was used for the purposes of the ordinance. Shared concerns about need for disclosure of past tenancy records	
003425 - 003551	Mr CHAN Kam-lam	Tenants might not wish to disclose to landlords personal information such as income. Concerned about	

		the distrust between landlords and tenants on the provision of personal information	
003551 - 003828	Mr Albert CHAN	Win-win situation if the Bill could facilitate Police in taking action against provision of false information by tenants in securing tenancies. Consideration should be given to requiring both landlords and tenants to give evidence to support their claim in case of disputes	
003828 - 003921	Mr CHAN Kam-lam	Illegal usage of tenanted premises (e.g. vice dens) could be dealt with by other ordinances and not by the Bill	
003921 - 004123	Police	Explanation on prosecution policy on the operation of vice dens. Existing legislation provided for enforcement against vice dens	
004123 - 004151	Chairman Police	Landlord's predicament if premises were used for illegal purposes	
004151 - 004306	Mr Albert CHAN	Supported the introduction of provisions which would facilitate Police in taking action against provision of false information by tenants in securing tenancies	

004324 - 004406	Administration	The proposal of imposing criminal liability on giving of false information in securing tenancies might catch those tenants who, though having provided false information, had duly complied with the terms of the contract, including the payment of rent	
004406 - 004455	Chairman Administration	Discussion on whether the proposal was outside the scope of the Bill	The Administration to explain in detail why a Committee Stage amendment (CSA) to effect the proposal of imposing criminal liability on the provision of false information by tenants was outside the scope of LTO
004455 - 004542	Administration	Inappropriate to impose criminal liability on the provision of false information as sometimes false information had to be given in order to secure tenancies. For example, some prospective tenants might not disclose their racial origins lest they would be racially discriminated by some landlords	
004542 - 004731	Chairman Administration	Discussion on whether the proposal was outside the scope of the Bill and the feasibility of introducing a CSA on the imposition of criminal liability on the provision of false information	

004731 - 005049	Administration Chairman	It might be necessary to provide in the CSA concerned that the false information given was to procure the tenancy which would not be secured if true information was given	
005049 - 005105	Mr Albert CHAN	Criminal liability would only be imposed on the provision of false information such as names, income and occupation	
005105 - 005306	Administration	Provision of false information already dealt with under section 16A of Theft Ordinance (Cap. 210) and there might not be a need for additional provisions in the Bill to deal with such cases	
005306 - 005606	Police	Provisions on giving of false information in the Bill would facilitate Police in taking action	
005606 - 005620	Chairman	Discussion on CSA	
005620 - 005730	Administration SALA2	The question of whether the said CSA would have charging effect or fall outside the scope of the Bill would be subject to President's ruling. Reference made to the Building Management (Amendment) Bill 2000 whereby some CSAs moved by Members were allowed as they were all related to improvements to building management and were	

		considered to be within the scope of the Bill. Situation was similar to the present Bill which was meant to improve the operation of LTO	
005730 - 005920	Chairman Administration Mr CHAN Kam-lam	Discussion on items 3 to 6 of LC Paper No. CB(1) 1945/01-02(02)	
005920 - 010003	Chairman Administration	Discussion on item 7 of LC Paper No. CB(1) 1945/01-02(02) on the disposal of properties left by tenants	
010003 - 010123	Mr Albert CHAN Administration	Discussion on ways to streamline procedures for disposal of properties left by tenants	
010123 - 010213	Mr Albert CHAN	Whether disposal order could be applied in parallel with the application for repossession of premises	
010213 - 010258	Administration	The Court would need to know what was left in premises before giving disposal orders	
010258 - 010308	Chairman	Enquiry on means of disposal	
010308 - 010433	Administration	If application for repossession was accompanied by application of distress for rent, the Court would, upon approval for repossession, issue warrant of distress allowing for seizure of property by bailiff who would in turn sell or discard properties as	

		appropriate. However, if application of distress for rent was not served, the landlord would have to apply to the Court for disposal orders	
010433 - 010746	Mr Albert CHAN Administration Chairman	Discussion on disposal arrangements. Clear guidelines should be worked out on the disposal of properties left in premises by tenant	
010746 - 010901	Mr CHAN Kam-lam Chairman	Application for repossession should be accompanied by application for distress for rent, interest for rent in arrears and disposal of properties left in premises by tenant	
010901 - 010911	Administration	Appropriate advice to be given to landlords by officers of the Rating and Valuation Department deployed at Lands Tribunal	
010911 - 010959	Chairman Administration Mr CHAN Kam-lam	Discussion on combining applications for repossession with application for distress for rent	
011124 - 011333	Administration	Writ of Possession and Writ of Execution were two separate orders. If combined, would involve substantial changes to LTO. For administrative convenience, Form 22 (Notice of application under LTO) could be revised to cover applications for	

		distress for rent, interest for rent in arrears and disposal of properties left in premises by tenants	
011333 - 011704	Chairman	Reference made to consequential amendments made to section 8 of Lands Tribunal Ordinance (Cap. 17) on the disposal of properties left by tenants and Form 22 tabled at meeting	
011704 - 012020	Mr Albert CHAN Chairman Mr CHAN Kam-lam Administration	Need to revise Form 22 to cover applications for distress for rent, interest for rent in arrears and disposal of properties left in premises by tenants and to indicate that these could be applied in parallel	The Administration to ask the Judiciary Administrator to consider including in Form 22 (Notice of application under LTO) applications for distress for rent, interest for rent in arrears and disposal of properties left in premises by tenants
012020 - 012043	Chairman	Discussion on items 8 of L C Paper No. CB(1) 1945/01-02(02) on the granting of relief for forfeiture to tenants	
012043 - 012055	Administration	Counter-proposal that a tenant should be forbidden to claim for relief for more than once per tenancy unless with good cause	
012055 - 012135	Mr HUI Cheung-ching	Landlords' interest would need to be protected against non-payment of rent	
012135 - 013310	Administration Mr HUI Cheung-	Discussion on Administration's counter-	The Administration to prepare a CSA to

	ching Chairman Mr Albert CHAN	proposal. Generally accepted that the counter-proposal would improve the present situation where there was no limit on the number of claims for relief by tenant, with or without good cause	reflect the legislative intent of forbidding a tenant to be granted relief from forfeiture upon non-payment of rent more than once per tenancy unless with good cause as determined by the Court
013310 - 013550	Chairman Administration	Discussion on items 9 of LC Paper No. CB(1) 1945/01-02(02) on unlawful eviction	
013550 - 013631	Mr Albert CHAN	Whether the suspension of water and electricity supply constituted harassment	
013631 - 013805	Police	Police action on unlawful eviction would depend on facts	
013805 - 013904	Chairman Administration	Discussion on items 1 and 2 of LC Paper No. CB(1) 2207/001-02(02) on extending the time for making distress and vesting of power to the Chief Justice to amend fees and forms under section 114 of LTO	
013904 - 014927	Chairman Administration Mr Albert CHAN	Reference to CSAs at Annex A to LC Paper No. CB(1) 2207/001-02(02) and concern was raised over the repetitiveness and inconsistency of clause 11 with provisions in tenancy agreements	
014927 - 015002	Administration	Provisions of tenancy agreements would override	

		the implied forfeiture clause in case of inconsistencies. The implied forfeiture clause was meant to provide conditions for forfeiture if no express provision was made in tenancy agreements	
015012 - 015030	Chairman Administration	Clause 11 to be refined to remove ambiguity, such that where there was an inconsistency between a tenancy and implied forfeiture clause, the provisions of the tenancy should prevail	
015030 - 015231	Chairman	The words “It is hereby declared that” in clause 11(4) to be replaced by “For the purposes of section”	
015231 - 015355	Administration	Agreed to refine drafting of clause 11(3)(b), (c), (d) and (4)(a)	The Administration to refine the drafting of the CSAs to clause 11(3)(b), (c), (d) and (4)(a) to ensure that the proposed forfeiture clauses were consistent with the provisions in the tenancy agreements concerned
015355 - 015402	Mr Albert CHAN	Discussion on whether implied forfeiture clause would apply to licence agreements	
015402 - 015442	Administration	Implied forfeiture clause provided the conditions for forfeiture of tenancies	

015442 - 015500	SALA2	Query on exclusion of subsection (3)(a) from clause 11(4)(b)	
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015500 - 015510	Administration	Subsection (3)(a) to be added to clause 11(4)(b)	
015510 - 015715	Chairman SALA2 Administration	Discussion on section 58(1) to (13) of the Conveyancing and Property Ordinance (Cap. 219) referred to in clause 11 (4)(b)	The Administration to advise the legislative intent of clause 11(4)(b) of the CSA and the different timeframes for relief under the Conveyancing and Property Ordinance (Cap. 219)
015715 - 015721	Chairman	Discussion to be continued on 23 July 2002	

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

Legislative Council Secretariat

30 July 2002