

立法會
Legislative Council

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Bills Committee on Fire Safety (Buildings) Bill

**Minutes of the first meeting
held on Wednesday, 14 March 2001 at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members Present** : Hon IP Kwok-him, JP (Chairman)
Hon Cyd HO Sau-lan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon James TO Kun-sun
Hon CHAN Yuen-han
Hon CHOY So-yuk
Hon Abraham SHEK Lai-him, JP
Hon Frederick FUNG Kin-kee
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP
- Member Absent** : Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
- Public Officers Attending** : Mr David WONG
Principal Assistant Secretary for Security
- Mr C C LEE, JP
Chief Fire Officer (Protection)
Fire Safety
Fire Services Department
- Mr C C TSANG
Assistant Director of Buildings (Existing Buildings)
Buildings Department

Clerk in Attendance : Mrs Sharon TONG
Chief Assistant Secretary (2) 1

Staff in Attendance : Miss Anita HO
Assistant Legal Adviser 2

Miss Mary SO
Senior Assistant Secretary (2) 8

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I. Election of chairman

Mr IP Kwok-him was elected Chairman of the Bills Committee.

II. Meeting with the Administration

2. At the invitation of the Chairman, Principal Assistant Secretary for Security (PAS/S) briefed members on the background to and major proposals in the Fire Safety (Buildings) Bill (the Bill) as set out in the Legislative Council (LegCo) Brief.

3. Referring to paragraph 12 of the LegCo Brief which stated that the fire risks of buildings normally associated with residential purposes were lower, Mr James TO enquired what "lower" meant. Referring to the same paragraph which stated that owners or occupiers of domestic parts of composite buildings and domestic buildings would only be required to install the most essential fire safety items in their buildings such as fire hydrant/hose reel systems, Mr TO raised doubts as to the costs and benefits for doing so if the fire risks of buildings normally associated with residential purposes were not high and that such risks could be greatly reduced by various measures presently taken by the Administration such as the stepping up of actions to remove unauthorised rooftop structures and to monitor the maintenance of communal electrical installations in buildings.

4. PAS/S explained that the fire risks of buildings normally associated with residential purposes were lower in comparison with those of the commercial buildings. PAS/S however pointed out that this did not mean that the fire risks of domestic parts of composite buildings and domestic buildings were so low that there was no need for new legislation to improve fire safety standards in these buildings. According to a territory-wide buildings survey conducted by the Fire Services Department (FSD) in early 1998, the findings revealed that while the fire safety provisions of many private buildings were not up to current standards, the fire safety condition in composite buildings, among the different types of private buildings, was the most unsatisfactory. The result was generally in line with a sample survey conducted by the Buildings

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Department (BD), which found that 80% of the composite buildings had serious deficiencies in exit routes. PAS/S further said that the Bill did not only propose to require owners or occupiers of domestic parts of composite buildings and domestic buildings to upgrade fire safety installations (FSIs) in their buildings such as fire hydrant/hose reel systems, and would also require them to upgrade the fire safety construction therein such as protection of staircases with separating walls of adequate fire resisting construction, replacement of doors nearest to the first step of the staircase on each floor with doors of the current fire safety standard, and the provision of fire resisting enclosure of electrical wiring/installations, etc.

5. Chief Fire Officer (Protection), Fire Services Department (CFO(P)) said that there was a need to improve the fire safety standards in private buildings, having regard to the fact that on average about 3 500 to 4 500 cases of fire accidents occurred at domestic and composite buildings each year for the past several years. CFO(P) added that according to the public consultation jointly conducted by the Security Bureau and the Home Affairs Bureau on the proposals to improve fire safety in private buildings in June to August 1998, the objective to improve fire safety in private buildings was well supported by the community.

6. Assistant Director of Buildings (ADB) said that as the Buildings Ordinance and the Fire Services Ordinance could only impose the improved fire safety standards upon new buildings when the relevant building plans were submitted for approval, new legislation and enabling powers were therefore required to impose improved or additional fire safety measures which were not originally included in the approved building plans of old private buildings. It was on this premise that the Bill was introduced to improve fire safety standards in certain composite and domestic buildings.

7. Mr James TO enquired what the most essential fire safety improvement measures in domestic parts of composite buildings and domestic buildings proposed in the Bill were, and the estimated cost for implementing them under the most extreme circumstance, say, only six owners sharing the costs. In view of the cost implications to implement all the fire safety requirements proposed in the Bill, Mr TO expressed concern that owners of buildings which were included in the urban renewal programme would be forced to sell their properties to the developer at a compromised price because of their inability to foot the bill for the fire safety improvement works. To remedy the situation, Mr TO said that the Administration, in implementing the improvement programme to require owners or occupiers to upgrade FSIs and the fire safety construction in their buildings, should have regard to the urban renewal programme and that it should take old buildings requiring substantial fire safety improvement works into account in its priority project selection.

8. PAS/S responded that the fire safety measures which owners or occupiers of the domestic parts of composite buildings and domestic buildings must comply with were set out in Annex D of the LegCo Brief. As regards Mr TO's second question about the estimated costs for implementing the fire safety improvement works, PAS/S

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said that they would depend on the type of building, the difference between the existing and the proposed standards of FSIs, the extent of deficiencies in building fire safety structure, and the number of co-owners of the building. Nevertheless, according to a sample survey conducted by FSD and BD to estimate the costs for upgrading a composite building and a residential building, the results were as follows

	<u>Average cost per unit</u>
Commercial portion of a composite building (assuming 8 commercial units in a 16-storey building)	\$57,000
Residential portion of a composite building (assuming 84 residential units in a 16-storey building)	\$18,000
Residential unit in a residential building (assuming 64 units in a 15-storey building)	\$23,000

PAS/S further said that in order to minimise the financial impact on the owners, the Administration had already excluded from the Bill certain requirements originally proposed in the 1998 consultation document to improve fire safety in private buildings.

9. PAS/S assured members that in requiring building owners to comply with the fire safety requirements proposed in the Bill, due regard would be given to the urban renewal programme. To this end, FSD and BD would closely liaise with the soon to be set up Urban Renewal Authority (URA) on buildings affected by land resumption. In order to strike a right balance between not creating a heavy financial burden on building owners and better safeguarding public safety, for example, consideration could be given to only requiring owners whose buildings would soon to be demolished to comply with certain fire safety requirements proposed in the Bill. CFO(P) supplemented that the Bill, if passed, would apply to those composite and domestic buildings whose building plans were first submitted to the Building Authority for approval under regulation 29 of the Building (Administration) Regulations on or before 1 March 1987; or those composite and domestic buildings which were constructed on or before 1 March 1987 where no plans of the building works of the buildings were submitted to the Building Authority for approval under regulation 29 of the Building (Administration) Regulations before that date. The Bill, however, would not apply to private buildings of 3-storey or below and to such buildings constructed in accordance with the Buildings Ordinance (Application to the New Territories) Ordinance.

10. Ms Audrey EU said that it was not uncommon that, because of fitting-out works, owners would need to make revisions to the building plans previously

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approved by BD. As some of these revisions would sometimes result in changes to, say, means of escape, Ms EU enquired whether in implementing these changes, owners were required to comply with the Code of Practice concerned in order to avoid infringing the law. Ms EU further enquired whether the Code of Practice on Minimum Fire Service Installations and Equipment 1987, as mentioned in paragraph 8 of the LegCo Brief, was still in force, and the reason why no provision was made in the Bill to require building owners to have their fire service installation or equipment inspected by a registered contractor.

11. ADB responded that the various Codes of Practice on fire safety construction were for guidance purposes and were not legally binding. ADB said that making changes to the building plans approved by BD would not automatically constitute an offence, so long as the changes made were justifiable and that fire safety would not be compromised.

12. CFO(P) said that under section 1(f) of Schedule 1 of the Bill to be complied with by owners of composite buildings in respect of parts intended for non-domestic purposes, it was proposed that the standards of upgrading measures should follow those set out in the 1994 edition of the Code of Practice on Minimum Fire Service Installations and Equipment. As to why the Bill did not include provision to require building owners to have their fire service installation or equipment inspected by a registered contractor, CFO(P) explained that such provision was already covered by the Fire Service (Installations and Equipment) Regulations under the Fire Services Ordinance (Cap. 95) which stipulated that owners of any fire service installation or equipment which was installed in any premises must have such fire service installation or equipment inspected by a registered contractor at least once every 12 months. CFO(P) further said that to heighten public awareness about fire safety, some legislation had provisions regarding fire drills, e.g. the Education Ordinance had provision requiring each school to conduct one fire drill each month. Although similar requirement was not imposed on owners of multi-storey composite buildings, some 1 600 fire drills had been conducted by FSD and the Home Affairs Department (HAD) for owners and occupants of multi-storey composite buildings in 2000.

(Post-meeting note : According to the Administration, as the Code of Practice on Minimum Fire Service Installations and Equipment would be revised every now and then, it would not be reasonable to require owners and occupiers of old composite buildings and domestic buildings to comply with the latest requirements stipulated in the latest edition. In this connection, although the 1998 edition of the Code of Practice was currently in force, the Bill only proposed that the standards of upgrading measures should follow those set out in the 1994 edition, in keeping with the standards required under the Fire Safety (Commercial Premises) Ordinance.)

13. Mr LAU Ping-cheung was of the view that conducting 1 600 fire drills a year was not enough for promoting fire safety. He urged the Administration to step up

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public education to heighten public awareness in this regard. In view of the fact that many fire accidents occurred inside residential units rather than in common areas inside a building, Mr LAU enquired whether consideration would be given to requiring each owner or occupier to install basic fire safety equipment in their home. Noting that the Bill, if passed, would also apply to buildings sold by the Housing Authority under the Home Ownership Scheme or the Tenants Purchase Scheme, as well as the public rental housing blocks, Mr LAU further enquired whether government buildings would also be subject to the provisions in the Bill.

14. PAS/S responded that making new legislation to upgrade fire safety standards was only one of the proposals recommended in the 1998 public consultation document to improve fire safety in private buildings. Other proposals included promoting a fire safety culture in the community and improving the management of private buildings. In respect of the former, apart from conducting 1 600 fire drills for owners and occupants of private buildings in 2000, 5 000 Fire Safety Ambassadors had been enrolled and 2 200 talks, seminars and exhibitions on fire safety had been organised last year to enhance public education and involvement in promoting fire safety. In respect of the latter, the Building Management (Amendment) Ordinance 2000 passed by LegCo on 27 June 2000 sought to, amongst others, provide for mandatory management of buildings with serious management and maintenance problems and facilitate owners of new buildings to form owners' corporations (OCs). To strengthen the services and support to owners and OCs of private buildings, HAD had also set up Building Management Resource Centres to provide updated and comprehensive information on building management and answers to general enquiries. On the question about whether government buildings would be subject to the provisions in the Bill, PAS/S said that although government buildings were not covered by the Buildings Ordinance and other related ordinances, it was the Government's policy that all government buildings must adhere to the standards contained in the prevailing buildings and other related ordinances. On the proposal to require each owner or occupier to install basic fire safety equipment in their home, CFO(P) said that there would be practical difficulties to do so as it was very difficult to ensure that every owner or occupier would comply with the requirement of installing such basic fire safety equipment as fire extinguisher in their home. In the Administration's view, a better way was to require each building floor to have a fire hydrant and hose reel system as proposed in the Bill.

15. Mr LAU Ping-cheung said that to overcome the practical difficulties of requiring each owner or occupier to install basic fire safety equipment in their home, consideration could be given to encouraging property developers to install such in their buildings under construction. PAS/S agreed to convey to the government departments concerned Mr LAU's suggestion.

16. Referring to paragraph 26 of the LegCo Brief which stated that the upgrading works for composite buildings in ten years would cost about \$1.8 billion per annum, Ms Cyd HO enquired whether the Fire Safety Improvement Loan Scheme (FSILS) and the Building Safety Improvement Loan Scheme (BSILS), with a combined loan

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funding of \$700 million, would be adequate to meet the applications from building owners for financial assistance to help alleviate their cash flow problems in complying with the upgraded fire safety standards. Noting that the Administration intended to merge the FSILS with the BSILS to form a single loan scheme under broader terms of reference, Ms HO further enquired about the repayment period under the new loan scheme.

17. PAS/S responded that the Administration would consider seeking additional funding for the revised loan scheme from LegCo's Finance Committee where necessary. PAS/S said that the Administration was presently drawing up the details of the revised loan scheme. The Administration's initial thinking was that while repayment terms were normally 36 months at an interest rate with no gain or loss to the public purse, individual owners in need, e.g. elderly persons with very low income, would be given the flexibility to repay at no interest over a much longer period, i.e. 72 months to settle the loan upon transfer of title. To ensure proper understanding of their rights and obligations as well as application procedures, the Administration would widely publicise and enlist the help of social workers and support teams for the elderly. PAS/S added that although the upgrading works for composite buildings in ten years would cost about \$1.8 billion per annum, not all building owners would need to seek financial assistance from the Government in complying with the upgraded fire safety standards. This was evidenced by the fact that very few owners who were required to comply with the Fire Safety (Commercial Premises) Ordinance sought financial assistance from the Government.

18. At the request of Ms Cyd HO, Assistant Legal Adviser (ALA) briefed members on her letter to the Administration dated 8 March 2001 (LC Paper No. CB(2) 1070/00(01)) seeking clarifications regarding clauses 3, 5, 7, 8 and 14 of the Bill. In respect of clause 7 which sought to empower the District Court to make an order prohibiting occupation of a building or part where a fire safety direction or fire safety compliance order was not complied with, ALA said that under the original proposal promulgated in the context of the 1998 public consultation, a prohibition order would be applicable to the non-domestic parts of a composite building only and but not to the domestic parts thereof or to domestic buildings. However, it was now proposed in the Bill that prohibition order would be applicable to both the non-domestic and domestic parts of composite buildings and to domestic buildings, so as to be consistent with Article 22 of the Hong Kong Bill of Rights Ordinance. ALA pointed out that it was unclear whether under clause 7(6) a prohibition order would be applicable to the relevant building as a whole or just the non-domestic parts, if the owners of the domestic parts of that building had complied with the requirements in Schedule 2 but the owners of the non-domestic parts had not complied with the requirements in Schedule 1. If the prohibition order was applicable to the whole building, the owners of the domestic parts of that building would then be arbitrarily deprived of their property rights, which, in her views, might be inconsistent with Articles 6 and 29 of the Basic Law which stated that the HKSAR should protect the right of private property and that the homes and other premises of Hong Kong residents should be inviolable. ALA further said that if a prohibition order was made against domestic

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premises, occupants might become homeless. However, it was unclear as to whether there would be compensation or arrangements for accommodation for the people affected.

19. PAS/S gave a preliminary response to the queries raised by ALA concerning clause 7 of the Bill. PAS/S said that the intention of the prohibition order was to safeguard public safety. In this connection, the Administration accepted the Department of Justice's advice that the differential treatment, i.e. a prohibition order not be applicable to the non-domestic parts of a composite building, was not based on reasonable and objective criteria and was inconsistent with the guarantee of equality before and equal protection of the law under Article 22 of the Hong Kong Bill of Rights Ordinance. Notwithstanding the availability of this power, PAS/S assured members that the enforcement authorities, i.e. FSD and BD, would exercise prudent discretion before applying to the court for a prohibition order, and the court would not issue such an order unless it had been proved to be reasonable and necessary in the circumstances and there could be substantial fire risks if the relevant building or part of that building was occupied.

20. Ms Cyd HO requested the Administration to elaborate in its reply to ALA's letter on how the principle of protecting the right of private ownership of property would be addressed. Ms HO enquired, in the case that a prohibition order was applied to the whole domestic building or to the domestic parts of a composite building, whether the Administration would provide temporary housing for the people affected. To ensure that no one would be made homeless because of their lack of financial means to comply with the upgraded fire safety requirements, Ms HO was of the view that a provision to guarantee such arrangement should be spelt out in the Bill.

21. PAS/S responded that temporary housing would be provided to people who were required to vacate from their homes pursuant to statutory orders on public safety grounds. PAS/S pointed out that there was adequate protection to owners or occupiers of private buildings provided in the Bill. Under clause 7 of the Bill, the court might make an order prohibiting the occupation of a building or part of that building only if it was satisfied that -

- a) the owner or occupier had failed to comply with a requirement specified in a fire safety direction or a fire safety compliance order;
- b) it was reasonable to expect the owner or occupier to comply with the requirement;
- c) the time allowed for complying with the requirement was reasonable;
- d) it was reasonable and necessary in the circumstances to make the order; and

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- e) there could be substantial fire risks if the relevant building or part of a building was occupied.

22. Mr Frederick FUNG opined that penalties for contravening the prohibition order, i.e. a person would be liable on conviction to a fine of \$250,000 and to a further fine of \$25,000 for each day or part of a day during which the contravention continued, were too harsh particularly to owners or occupiers of the domestic parts of a composite building and domestic buildings, having regard to the fact that it was unlikely that the upgrading work would exceed \$250,000 for each domestic unit. Mr FUNG particularly opposed the proposal that a person found guilty of contravening the prohibition order would also be liable to imprisonment for three years. He pointed out that although unauthorised building works had greater potential risks to public safety than the non-compliance of a prohibition order under the Bill, owners of unauthorised building works were not liable to imprisonment. Mr FUNG further said that as many owners and occupiers of old private buildings were elderly people who might need more assistance in complying with the new fire safety requirements, consideration should be given to adopting a "one-stop" service approach practised by the Planning and Lands Bureau (PLB) in tackling the problem of unauthorised building works. In view of the fact that many old private buildings did not have OCs, Mr FUNG enquired how the Administration would ensure that the upgraded fire safety measures would be implemented to the common areas of the buildings.

23. PAS/S responded that the penalties proposed in the Bill were modelled upon the relevant provisions under the Fire Safety (Commercial Premises) Ordinance. PAS/S pointed out that a fine of \$250,000 and imprisonment for three years were the maximum penalties to which the court would only deliver under the most severe circumstances. On the suggestion of adopting a "one-stop" approach so as to provide a comprehensive guidance and assistance to owners and occupiers of private buildings, PAS/S said that this would be done as BD had recently introduced a pilot Coordinated Maintenance of Buildings Scheme (CMBS) which aimed at helping building owners and OCs to comply with their statutory obligation to maintain their buildings in safe condition and to ensure that all building-related enforcement legislation was coordinated efficiently and cost-effectively, with minimal inconvenience to owners or OCs. PAS/S further said that FSD and BD would work in tandem to see that compliance of the upgraded fire safety measures were successfully implemented in the private buildings stipulated in the Bill. He assured members that there would be no question of FSD and BD issuing their respective fire safety requirements to owners or occupiers separately and in different time periods. PAS/S said that the Administration would put in extra efforts to see that those private buildings covered by the Bill had complied with the upgraded fire safety measures if the buildings concerned did not have OCs, e.g. by visiting each and every owner or occupier so as to help them organise themselves to implement the new fire safety requirements, but this was not impossible. CFO(P) supplemented that if building owners could not be found, FSD would try to locate them through such sources as the Rating and Valuation Department and the Land Registry. In order to apprise building owners of

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their statutory obligation to maintain their buildings in safe condition, FSD had regularly organised talks in collaboration with HAD's Building Management Resource Centres in this regard or contacted the building owners direct to brief them on the relevant requirements.

24. Mr Frederick FUNG said that FSD should draw reference from the proposals put forward by the Task Force on Building Safety and Preventive Maintenance set up by PLB to tackle unauthorised building works, such as advising building owners on procurement of services of fire safety contractors, model tender and contract documents, and indicative information on fees and charges for different types of FSIs and fire safety construction, and providing them with a list of registered fire safety contractors, etc. Mr FUNG further said that it was not good enough to rely on the CMBS to provide a "one-stop" service as well as the HAD's Building Management Resource Centres in helping building owners to comply with the new fire safety requirements, having regard to the fact that the number of private buildings required to undergo fire safety improvement works far exceeded the number of buildings which the CMBS was set up to handle and that to date there were only two Building Management Resource Centres. In this connection, Mr FUNG requested the Administration to give an estimate on the additional manpower resources needed to provide a "one-stop" service in helping building owners to comply with the new fire safety requirements.

25. PAS/S agreed to provide more information as to which proposals of the Task Force on Building Safety and Preventive Maintenance could be adopted for use in improving fire safety to private buildings. Regarding the suggestion of providing building owners with a list of registered fire safety contractors, PAS/S said that FSD could do so. As to the additional resources required to implement the new fire safety requirements proposed in the Bill, PAS/S said that an additional annual provision of \$26.3 million and \$15.3 million would be allocated to FSD and BD respectively to enhance their inspection and enforcement work. At the request of members, PAS/S undertook to provide a paper providing more information on what actions the Administration would take to ensure the smooth implementation of the Bill.

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26. Miss CHAN Yuen-han expressed concern that the Bill would inevitably create financial hardship on some building owners and occupiers. In her view, if such an obstacle could not be overcome, it would hinder the smooth implementation of the Bill. Miss CHAN further expressed concern about whether owners or occupiers would be given sufficient advance notice/warning before FSD and BD applied a prohibition order from the court; in other words, whether the owners or occupiers would have the opportunity to appeal to the court before such an order was made by the court. PAS/S undertook to address the concerns raised by Miss CHAN in its paper for the Bills Committee.

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27. Miss CHOY So-yuk raised the following questions -

- a) whether buildings included in the urban renewal programme would be required to comply with the upgraded fire safety measures proposed in the Bill;
- b) how FSD and BD would handle cases where owners encountered practical difficulties in complying with the new fire safety standards;
- c) what the repayment terms of the loan scheme to help building owners who had difficulty in complying with the new fire safety standards would be; and
- d) how FSD and BD would handle cases where an owner or occupier ignored the advice of OCs to remove objects found to be obstructing the fire escape route.

28. In response, PAS/S reiterated that FSD and BD would liaise closely with the soon to be set up URA regarding the progress of the urban renewal programme in order to determine how best to upgrade the fire safety measures of a particular private buildings. PAS/S said that if the upgraded fire safety measures had a useable period of, say, seven years, but the buildings concerned would need to be demolished, say, within one to two years' time to make way for urban renewal, consideration could be given to reimbursing the owners or occupiers an amount equivalent to the remaining usable period of the upgraded fire safety measures. PAS/S further said that the Administration was well aware of the physical constraints of some old private buildings in meeting some of the new fire safety requirements. To this end, a flexible and pragmatic approach would be adopted by FSD and BD in the enforcement of the Bill. Moreover, to ensure fair and impartial consideration of any alternative fire safety measures which might be proposed by the owners themselves, independent advisory bodies which the Director of Fire Services and the Director of Buildings might consult would be set up. As regards loan repayment terms, PAS/S reiterated the proposal that interest rate would be charged on the basis of the cost of the fund to the Government and that flexibility would be exercised in the period of repayment. As to the question regarding obstructing the fire escape route, CFO(P) said that it was very difficult to prosecute people for putting objects obstructing the fire escape route unless they were caught on the scene. Under the circumstance, the best way to reduce the occurrence of people putting objects obstructing the fire escape route was through education to heighten public awareness about fire safety.

29. Miss CHOY So-yuk enquired how the flexibility and pragmatic approach to be adopted by FSD and BD would be carried out in practice. CFO(P) responded that in the letter to the owners or occupiers informing them of the fire safety requirements they needed to comply with, the telephone number of the responsible officers would be provided together with a statement that FSD and BD would exercise flexibility in

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handling cases where owners encountered practical difficulties in complying with the fire safety requirements, for example, they would be prepared to consider other alternative fire safety measures proposed by the owners. Miss CHOY requested the Administration to elaborate on the point made by CFO(P) in writing.

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30. In view of the fact that some old buildings originally built as commercial buildings were in practice used for domestic purposes, the Chairman enquired whether the Bill, if passed, would apply to such buildings. CFO(P) replied that according to legal advice, the approved purposes of the building would determine which ordinance the building concerned should be subject to. Nevertheless, the Administration would adopt a flexible approach in enforcing the fire safety requirements which such buildings must comply with. Members requested the Administration to further explain in writing how such flexibility would be exercised.

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III. Date of next meeting

31. In view of the significant implications of the Bill on the community, members agreed to invite submissions from the public. Members also agreed that the next two meetings be held on 2 April 2001 at 4:30 pm and 25 April 2001 at 8:30 am to meet with interested parties and to continue discussion with the Administration on the Bill respectively.

32. There being no other business, the meeting ended at 12:50 pm.

Legislative Council Secretariat
29 May 2001