

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1116/06-07  
(These minutes have been  
seen by the Administration)

Ref : CB2/BC/8/04

**Bills Committee on  
Building Management (Amendment) Bill 2005**

**Minutes of meeting  
held on Monday, 8 January 2007, at 2:30 pm  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)  
Hon Margaret NG  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Abraham SHEK Lai-him, JP  
Hon Albert CHAN Wai-yip  
Hon Audrey EU Yuet-mee, SC, JP  
Hon WONG Kwok-hing, MH  
Hon LI Kwok-ying, MH, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Prof Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** : Hon Albert HO Chun-yan  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk, JP  
Hon Andrew CHENG Kar-foo  
Hon TAM Heung-man
- Public Officers attending** : Home Affairs Department  
Mr Isaac CHOW  
Deputy Director of Home Affairs (2)  
Mrs Angelina CHEUNG  
Assistant Director of Home Affairs (4)

Department of Justice

Mr Michael LAM  
Senior Government Counsel

**Clerk in attendance** : Miss Flora TAI  
Chief Council Secretary (2)2

**Staff in attendance** : Mr Stephen LAM  
Assistant Legal Adviser 4

Ms Joanne MAK  
Senior Council Secretary (2)2

---

Action

**I. Confirmation of minutes**

[LC Paper No. CB(2)788 and 799/06-07]

The minutes of the meetings on 21 November 2006 and 24 November 2006 were confirmed.

**II. Meeting with the Administration**

[LC Paper No. CB(3)477/04-05, CB(2)3140/05-06(01) and LC Paper No. CB(2)638/06-07(01)-(03)]

2. The Bills Committee completed discussion of the Administration's paper [LC Paper No. CB(2)638/06-07(01)] and relevant revised Committee Stage amendments (CSAs) proposed by the Administration. (Index of proceedings attached in **Annex**).

Proposed new paragraph 4(3A) of Schedule 2 to the Building Management Ordinance (BMO)

3. Members noted that it was the Administration's position of retaining the proposed new paragraph 4(3A) of Schedule 2 which stipulated that a member of the management committee (MC) who failed to comply with paragraph 4(3) would have to cease to be such member. The Administration, however, undertook that it would enhance administrative measures to facilitate MC members' compliance with this new requirement after enactment of the Bill.

Paragraph 8 of Schedule 2 to BMO

4. Members noted that the Administration had refused to take on the suggestion that MCs should be required to inform owners of the agenda of MC

Action

meetings on the grounds set out in paragraph 73 of the Administration's paper, and suggested to stipulate the requirement as a good practice in the guidelines regarding meetings of an MC. The Chairman and Mr WONG Kwok-hing found the arguments put forward by the Administration not convincing. They considered that, although owners did not have any legal right to participate in MC meetings, they should have the fundamental right to be informed of the matters to be discussed at MC meetings so that they could reflect their views through their representatives or to the MC directly, if necessary. They also stressed that the proposed requirement would enhance the transparency of the operation of an MC and better protect owners' rights.

Admin

5. Members agreed that the Bills Committee would move CSAs to such effect should the Administration decide not to incorporate the proposed requirement in the legislation. The Chairman requested the legal adviser to the Bills Committee to draft the relevant CSAs accordingly.

ALA4

Paragraph 8 of Schedule 7 to BMO

6. Mr WONG Kwok-hing expressed dissatisfaction with the Administration's refusal to move amendments to paragraph 8 of Schedule 7 to stipulate that the outgoing manager was obliged to deliver properties relating to the management of public utilities installation in the building immediately upon the termination of the contract of the manager. Other members in general, however, considered that the relevant proposed revised CSAs had addressed members' concerns as far as possible, given that paragraph 8(1) would have the effect of imposing a legal obligation on the outgoing manager to deliver other properties or records as soon as practicable. Ms Audrey EU expressed the view that there was no point of specifying the requirement that the outgoing manager had to deliver such properties "immediately" because, in practical circumstances, disputes over the delivery of such properties were very often triggered by disputes over the termination of the manager, which might have to be resolved by the court and, in that case, the relevant hearing would probably take one to two weeks.

Transitional provisions

Admin

7. The Chairman requested the Administration to take every possible administrative measure to persuade MCs formed in accordance with their deeds of mutual covenant to comply with the amended Schedule 2 regarding the composition and procedure of an MC before the end of the four-year transitional period.

Enforcement of the various provisions in BMO

8. Members in general were of the view that the Administration should not stipulate too many penalty provisions in BMO in order not to deter owners

Action

Admin

from participating in the voluntary work of owners' corporations (OCs). Members, however, requested the Administration to review the adequacy of the amount of fine under section 11, making reference to the penalty level imposed on failure to display a valid business registration certificate at the place of business under the relevant ordinance.

*(Post-meeting note: The Administration has reviewed the penalty level of the various provisions under BMO vis-a-vis the Companies Ordinance (Cap. 32) and Business Registration Ordinance (Cap. 310). Although there are similar provisions with penalty under these 2 pieces of legislation, the Administration did not consider it appropriate to revise the penalty level in BMO in line with Cap. 32 and Cap. 310. An OC formed under BMO is to facilitate the management of the common parts of the building and all members participate on a voluntary bases. If a high level of penalty is imposed on the registration procedures of an OC, it may discourage owners to participate in the work of the MC. The Administration therefore considers that the present level of penalty should be retained.)*

### **III. Any other business**

#### Legislative timetable

9. The Administration informed members that as the Secretary for Home Affairs would not be available to attend the Council meetings on 7 February and 7 March 2007, it hoped that the Bill could resume its Second Reading debate at the Council meeting on 31 January 2007. Members noted, if the Bill was to resume its Second Reading debate on 31 January 2007, the Bills Committee would need to report to the House Committee on its deliberations of the Bill on 19 January 2007 and the deadline for giving notice to move Committee Stage amendments (CSAs) would be 22 January 2007. Members in general agreed that scrutiny of the Bill should be completed as soon as possible. The Chairman, however, remarked that individual members might need time to consider whether it would be necessary to move CSAs after the final set of CSAs to be moved by the Administration was available. After discussion, members agreed that the Bills Committee would schedule an additional meeting for Friday on 12 January 2007 at 8:30 am.

10. There being no other business, the meeting ended at 4:20 pm.

**Proceedings of the meeting of Bills Committee on  
Building Management (Amendment) Bill 2005  
on Monday, 8 January 2007, at 2:30 pm  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000741	Chairman	<b>Confirmation of minutes of meetings</b>	
000742 - 002214	Chairman Admin Ms Miriam LAU Mr WONG Kwok-hing	<b>Legislative timetable and scheduling of an additional meeting</b>	
002215 - 002618	Chairman Admin	<b>Discussion of the Administration's paper and relevant revised Committee Stage amendments (CSAs) proposed by the Administration</b> [LC Paper No. CB(2)3140/05-06(01) and CB(2)638/06-07(01) to (03)] -	
002619 - 002620	Chairman Admin	<u>Self-declaration requirement of management committee (MC) members</u>	
002620 - 003307	Chairman Admin	<u>Filling of vacancies in MC</u>	
003308 - 005429	Chairman Admin Mr WONG Kwok-hing Mr LEUNG Kwok-hung Mr Abraham SHEK	<u>Agenda of the MC</u>	<b>Admin to consider members' views and ALA to draft CSAs</b> (para. 5 of minutes)
005430 - 010311	Chairman Admin Ms Miriam LAU	<u>Meetings and procedure of corporation</u>	
010312 - 011948	Chairman Admin Mr WONG Kwok-hing Mrs Selina CHOW Ms Audrey EU	<u>Mandatory terms in deeds of mutual covenant: requirement for managers</u>	
011949 - 012044	Chairman Admin	<u>Enumeration of owners</u>	
012045 - 013140	Chairman Admin	<u>Transitional provisions</u>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
013141 - 014820	Chairman Admin Ms Miriam LAU	<u>Enforcement of the Building Management Ordinance</u>	<b>Admin to review the adequacy of the amount of fine under section 11</b> (para. 8 of minutes)
014821 - 014931	Chairman	<u>Date of next meeting</u>	

Council Business Division 2  
Legislative Council Secretariat  
15 February 2007