

立法會
Legislative Council

LC Paper No. CB(2)2170/05-06
(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 Thursday, 27 April 2006 at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon Albert HO Chun-yan
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon CHOY So-yuk, JP
Hon Andrew CHENG Kar-foo
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LI Kwok-ying, MH
Hon TAM Heung-man
- Members absent** : Hon Margaret NG
Hon Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Patrick LAU Sau-shing, SBS, JP
- Public Officers attending** : Home Affairs Department
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. Meeting with the Administration
[LC Paper Nos. CB(2)1182/05-06(01)]

The Bills Committee deliberated the Administration's paper on "Quorum of a management committee (MC) and other related matters" [LC Paper No. CB(2)1182/05-06(01)] (Index of proceedings is at **Annex**).

Filling of vacancies in an MC

2. Members in general supported the Administration's proposal of introducing Committee Stage amendments (CSAs) to expand paragraph 6(2) of Schedule 2 along the line of paragraph 6(1B) so that a casual vacancy in an MC could be filled either by the MC or the owners' corporation (OC) at a general meeting. Members considered that in order to avoid the need to trigger the mechanism under sections 30 and 31 of the Building Management Ordinance (BMO), a set of simplified and clear procedures should be provided for owners to appoint MC members to fill the casual vacancies in case the size of MC dropped to below the quorum (i.e. 50%). They had made the following suggestions -

- Admin
- (a) the chairman of an MC should be allowed to convene an owners' meeting under paragraph 1(2) of Schedule 3 to fill casual vacancies in the MC even without having received a request of not less than 5% of the owners, provided that the meeting was held solely for the purpose of passing a resolution to fill the vacancies;

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- (b) the list of agents who could apply under section 31 of BMO to the Lands Tribunal for the appointment of an administrator should be expanded as far as possible;
- (c) an inquorate MC should be allowed to convene a meeting to appoint a temporary chairman among its members whose role was only to convene a meeting for the purpose of passing a resolution to fill the casual vacancies in an MC; and
- (d) the Authority could order that an owners' meeting be convened for such purpose if there was no litigation involved.

Admin

3. Members considered that consultation with professional bodies in the building management sector on the relevant CSAs to be prepared would be required. The Chairman also reminded the Administration that when devising the procedures as suggested in paragraph 2(c) and (d) above, the Administration had to work out operational details such as who would be given the authority to determine and cross-check the validity of proxies received.

4. Mr WONG Kwok-hing proposed that a mechanism should be put in place under BMO to provide for a waiting list of candidates for appointment to fill casual vacancies in an MC. The list would be made up of nominees who had lost by a narrow margin during a previous election for the appointment of MC members held at an owners' meeting. Some other members, however, expressed reservation about the proposal. They considered that the proposal might give rise to disputes and it would be more appropriate to leave the matter to the MC to decide.

Terms of the members appointed to fill vacancies

5. Members in general supported the Administration's proposal of introducing CSAs to amend paragraph 6(1B) and (2) of Schedule 2 to the effect that the corporation may, by a resolution passed at a general meeting of the corporation, appoint an owner to fill the vacancy in the MC (including the chairman, vice-chairman, secretary, treasurer or other members) and the terms of such appointment would end at the next alternate general meeting convened under paragraph 5 of Schedule 2 where all members shall retire.

Size of an MC

6. Members raised no objection to the Administration's proposal of introducing CSAs to include a new paragraph in Schedule 2 to stipulate that all owners' meetings could pass resolutions regarding the size of an MC (without prejudice to the statutory minimum stipulated in paragraph 1(a) of Schedule 2)

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and such new appointments should last till the next alternate annual general meeting when all members retired.

Voting system for the appointment of MC members

7. Members noted that while the Bills Committee was in general supportive of the Administration's proposal of adopting the "first past the post" voting system for the appointment of members of MC, it had not been discussed whether voting would be required if the number of nominees was the same as the minimum number of persons to constitute the MC. Mr Albert HO suggested the Administration to consider whether it would be feasible to endorse the appointment of these nominees as MC members by a resolution passed at the owners' meeting so that voting would not be required. Members agreed that the Administration should study the issue and the Bills Committee would follow up the issue when considering the relevant draft CSAs to be prepared by the Administration.

Admin

II. Any other business

Date of next meeting

8. Members noted that the next meeting would be held on Tuesday, 2 May 2006 at 10:45 am.

9. There being no other business, the meeting ended at 12:20 pm.

Council Business Division 2
Legislative Council Secretariat
29 May 2006

**Proceedings of the Bills Committee on
Building Management (Amendment) Bill 2005
on Thursday, 27 April 2006 at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
000349 - 010959	Chairman Admin Mr WONG Kwok-hing Miss CHOY So-yuk Mrs Selina CHOW Mr Albert HO Ms Audrey EU	<u>Discussion of the Administration's paper on "Quorum of a management committee (MC) and other related matters"</u> [LC Paper No. CB(2)1182/05-06(01)] - filling of vacancies in an MC - terms of the members who were appointed to fill vacancies - size of an MC	Admin to consider members' suggestions (paras. 2 and 3 of minutes)
011000 - 012500	Chairman Miss CHOY So-yuk Mr Albert HO	<u>Voting system for the appointment of MC members</u> - the "first past the post" voting system for the appointment of members of MC - whether voting would be required if the number of nominees was the same as the minimum number of persons to constitute the MC -	Admin to study the issue and the Bills Committee to further discuss the issue when considering the relevant Committee Stage amendments (para. 7 of minutes)
012401 - 013022	Chairman Mr Albert HO	To avoid the need to trigger the mechanism under sections 30 and 31 of the Building Management Ordinance by simplifying procedures for owners to appoint MC members to fill the casual vacancies when the size of MC dropped to below the quorum	
013023-013051	Chairman	Date of next meeting	