

立法會
Legislative Council

LC Paper No. CB(2)2545/04-05
(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 Tuesday, 12 July 2005 at 8:30 am
in the Chamber of the Legislative Council Building**

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

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)2197/04-05]

The minutes of the meeting on 14 June 2005 were confirmed.

II. Meeting with the Administration
[LC Paper Nos. CB(2) 1709/04-05(04) and CB(2)1885/04-05(03)]

2. The Bills Committee deliberated on the Administration's written responses to questions 7 and 8 raised by Miss CHOY So-yuk in her letter dated 25 May 2005 [LC Paper No. CB(2)1885/04-05(03)] (Index of proceedings at **Annex**).

Admin

3. On question 7, after consultation with the Department of Justice (D of J) and with reference to some law books on meetings, the Administration informed the Bills Committee that, if a quorum was not present, the chairman of the meeting could adjourn the meeting to another date. The above common law principle should apply to meetings of corporation convened under paragraph 1 of the Third Schedule to the Building Management Ordinance (BMO). The Administration had set out its views in LC Paper No. CB(2)2192/04-05(02) (paragraphs 9 - 11).

Admin

4. On question 8, the Administration was requested to provide written responses to the following issues raised by members –

(a) to seek legal advice from D of J on whether the chairman of an owners' meeting convened for the purpose of forming an owners' corporation (OC) had the power to adjourn the meeting when a quorum was not present for holding the meeting and explain relevant common law principles;

(b) if D of J's advice was in the negative, to confirm whether it would be necessary for an owner to sign another proxy form even though he wished to re-appoint the same proxy to attend another

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meeting convened for the same purpose of forming an OC;

- (c) in respect of paragraph 4(a) above, to review whether it was appropriate to include the phrase “[and at any adjournment thereof]” in the proposed “Form 1” in the newly added Schedule 1A;
- (d) to propose how to deal with the situation that two or more proxy forms signed by the same owner were lodged with the convenor of an owners’ meeting and that the convenor was unable to ascertain which was last signed by the owner concerned, and to propose the principles on the basis of which the verification of proxy forms should be done;
- (e) to consider a suggestion that two types of proxy form should be provided to serve the following purposes respectively –
 - (i) an owner appointing a proxy to attend an owners’ meeting on his behalf only for the purpose of establishing a quorum; and
 - (ii) an owner appointing a proxy to vote on his behalf on all resolutions;
- (f) to consider a suggestion that an owner signing a proxy form should be required to provide –
 - (i) the following information in the form on a mandatory basis –
 - the first four digits of his Hong Kong Identity Card number;
 - the date and time of signing the proxy form; and/or
 - his contact telephone number; and
 - (ii) the name and signature of a witness, if any;
- (g) to require OCs to display at a prominent place of the building concerned on a mandatory basis a list of the flats the owners of which had appointed proxies before the holding of an owners’ meeting and, after the meeting had been held, those which had voted by proxy;
- (h) to seek advice from D of J on what information omitted from a

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proxy form would invalidate the proxy instrument;

- (i) to consider a suggestion that an express provision be added to BMO to the effect that the chairman of an owners' meeting had the final authority in determining the validity of proxy instruments;
- (j) to consider a suggestion that, in the situation that an OC wished to appoint a professional (e.g. a lawyer or auditor) to assist in verifying proxy forms for the OC, the Administration should liaise with the chairman of the professional body concerned to seek his assistance in providing such a referral;
- (k) to consider a suggestion that the representatives of the Home Affairs Department attending owners' meetings should play a more active role in the verification of proxy forms and in handling disputes which arose during these meetings;
- (l) to explain what actions would be taken by the Police in dealing with complaints about forging proxy forms, and to step up law enforcement against such offences in order to enhance deterrent effect; and
- (m) to consider a series of questions and suggestions relating to proxy forms raised by Mr WONG Kwok-hing, who had agreed to provide them in writing for onward transmission to the Administration for written response.

Admin

5. The Chairman requested the Administration to take note of a member's suggestion that the Administration should review more frequently the Second and the Third Schedules to BMO and introduce amendments where necessary to facilitate the smooth operations of management committees (MCs) and OCs.

Admin

6. The Chairman also requested the Administration to consider whether the appointment of the chairman, the secretary and other members of an MC had to take place at the same owners' meeting at which an MC was appointed and whether flexibility could be allowed in this regard.

Dates of future meetings

7. The Bills Committee agreed to hold meetings on the following dates –

- (a) Tuesday, 4 October 2005 from 10:45 am to 12:45 pm;
- (b) Monday, 10 October 2005 from 10:45 am to 12:45 pm; and

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(c) Monday, 31 October 2005 from 10:45 am to 12:45 pm.

8. There being no other business, the meeting ended at 10:40 am.

Council Business Division 2
Legislative Council Secretariat
7 September 2005

**Proceedings of the Bills Committee on
Building Management (Amendment) Bill 2005
on Tuesday, 12 July 2005 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
000000 - 001339	Chairman	Confirmation of minutes of meeting held on 14 June 2005 [LC Paper No. CB(2)2197/04-05]	
001340 - 001124	Admin Chairman	<p><u>Follow-up to question 7 raised by Miss CHOY So-yuk in her letter dated 25 May 2005</u> [LC Paper No. CB(2)1885/04-05(03)]</p> <p>After consultation with the Department of Justice (D of J) and with reference to some law books on meetings, the Administration informed the Bills Committee that, if a quorum was not present, the chairman of the meeting could adjourn the meeting to another date. The above common law principle should apply to meetings of corporation convened under paragraph 1 of the Third Schedule to the Building Management Ordinance (BMO).</p>	
001125 - 003918	Mr Albert CHAN Admin Chairman Ms Miriam LAU	<p>Briefing by the Administration on its written response to question 8 raised by Miss CHOY So-yuk in her letter dated 25 May 2005 [LC Paper No. CB(2)1885/04-05(03)]</p> <p><u>Discussion on the proposed proxy forms (clause 22 of the Bill – Schedule 1A added)</u></p> <p>The Administration to seek legal advice from D of J on whether the chairman of an owners' meeting convened for the purpose of forming an owners' corporation (OC) had the power to adjourn the meeting when a quorum was not present for holding the meeting and explain relevant common law principles.</p> <p>The Administration to review whether it was appropriate to include the phrase “[and at any adjournment thereof]” in the proposed “Form 1” in the newly added Schedule 1A.</p>	Admin to provide written response (para. 4(a) and (c) of the minutes)

Time marker	Speaker	Subjects	Action required
		The Administration to consider whether the appointment of the chairman, the secretary and other members of an MC had to take place at the same owners' meeting at which an MC was appointed and whether flexibility could be allowed in this regard.	Admin to provide written response (para. 6 of the minutes)
003919 - 004805	Miss CHOY So-yuk Chairman Admin	<p>The Administration to propose how to deal with the situation that two or more proxy forms signed by the same owner were lodged with the convenor of an owners' meeting and that the convenor was unable to ascertain which was last signed by the owner concerned, and to propose the principles on the basis of which the verification of proxy forms should be done.</p> <p>The Administration to consider a suggestion that two types of proxy form should be provided to serve the following purposes respectively –</p> <ul style="list-style-type: none"> (i) an owner appointing a proxy to attend an owners' meeting on his behalf only for the purpose of establishing a quorum; and (ii) an owner appointing a proxy to vote on his behalf on all resolutions. 	Admin to provide written response (para. 4(d) and (e) of the minutes)
004806 - 005910	Mr Andrew CHENG Chairman Admin	Validity of proxy forms at the adjournment of a meeting of OC.	
005911 - 012654	Mr LI Kwok-ying Admin Chairman Mr Patrick LAU Miss CHOY So-yuk Mr WONG Kwok-hing	<p>The Administration to consider a suggestion that an owner signing a proxy form should be required to provide –</p> <ul style="list-style-type: none"> (i) the following information in the form on a mandatory basis – <ul style="list-style-type: none"> – the first four digits of his Hong Kong Identity Card number; – the date and time of signing the proxy form; and/or – his contact telephone number; and (ii) the name and signature of a witness, if any. 	Admin to provide written response (para. 4(f) of the minutes)

Time marker	Speaker	Subjects	Action required
012655 - 013845	Mr Albert CHAN Chairman Admin Ms Emily LAU	<p>The Administration to require OCs to display at a prominent place of the building concerned on a mandatory basis a list of the flats the owners of which had appointed proxies before the holding of an owners' meeting and, after the meeting had been held, those which had voted by proxy and to seek advice from D of J on what information omitted from a proxy form would invalidate the proxy instrument.</p> <p>The Administration to consider a suggestion that an express provision be added to BMO to the effect that the chairman of an owners' meeting had the final authority in determining the validity of proxy instruments</p>	Admin to provide written response (para. 4(g)-(i) of the minutes)
013846 - 015042	Mr Albert HO Chairman Admin	<p>The Administration to consider a suggestion that, in the situation that an OC wished to appoint a professional (e.g. a lawyer or auditor) to assist in verifying proxy forms for the OC, the Administration should liaise with the chairman of the professional body concerned to seek his assistance in providing such a referral.</p> <p>The Administration to take note of a member's suggestion that the Administration should review more frequently the Second and the Third Schedules to BMO and introduce amendments where necessary to facilitate the smooth operations of management committees (MCs) and OCs.</p>	Admin to provide written response (paras. 4(j) and 5 of the minutes)
015043 - 015813	Mr Andrew CHENG Chairman Miss CHOY So-yuk	The Administration to consider a suggestion that the representatives of the Home Affairs Department attending owners' meetings should play a more active role in the verification of proxy forms and in handling disputes which arose during these meetings.	Admin to provide written response (para. 4(k) of the minutes)
015814 - 020204	Ms Miriam LAU	The Administration to explain what actions would be taken by the Police in dealing with complaints about forging proxy forms, and to step up law enforcement against such offences in order to enhance deterrent effect.	Admin to provide written response (para. 4(l) of the minutes)

Time marker	Speaker	Subjects	Action required
020205 - 020355	Mr WONG Kowk-hing Mr Albert CHAN	The Administration to consider a series of questions and suggestions relating to proxy forms raised by Mr WONG Kwok-hing, who had agreed to provide them in writing for onward transmission to the Administration for written response.	Admin to provide written response (para.4 (m) of the minutes)
020356 - 020427	Chairman	Dates of future meetings	

Council Business Division 2
Legislative Council Secretariat
7 September 2005