

立法會
Legislative Council

LC Paper No. CB(2)198/06-07
(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 Thursday, 21 September 2006, at 10:45 am
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 Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, JP
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
Hon Patrick LAU Sau-shing, SBS, JP
Hon TAM Heung-man
- Members absent** : Hon Albert HO Chun-yan
Hon Albert CHAN Wai-yip
- 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 Nos. CB(2)3033/05-06 and CB(2)3034/05-06]

The minutes of the meetings held on 13 and 20 June 2006 were confirmed.

II. Meeting with the Administration

[LC Paper Nos. CB(2)1049/05-06(01), CB(2)2368/05-06(01) and CB(2)3038/05-06(01)]

2. The Bills Committee discussed -

- (a) items S to W in the paper entitled "Consolidated Response - The Administration's response to Members' suggestions/views" [LC Paper No. CB(2)2368/05-06(01)]; and
- (b) the paper entitled "Supplementary Consolidated Response - The Administration's response to Members' suggestions/views" [LC Paper No. CB(2)3038/05-06(01)], except for items H, J and K of the paper.

(Index of proceedings attached at **Annex**)

Action

Regulation of property management companies
[Item S of LC Paper No. CB(2)2368/05-06(01)]

3. Mr WONG Kwok-hing requested to put on record his view that the Administration should strive to complete its consultancy study on the feasibility of introducing a regulatory scheme for property management companies and work out a proposal on the way forward as early as possible.

4. Ms Miriam LAU suggested that if the Administration was to introduce a regulatory scheme for property management companies, consideration should be given to combining such a scheme with the existing regulatory scheme for the security and guarding services industry, in order to avoid requiring companies which provided security as well as property management services to apply for two licences.

Obligations after manager's appointment ends
[Item U of LC Paper No. CB(2)2368/05-06(01)]

Admin

5. The Administration was requested to revise its proposal having regard to the following members' concerns and suggestions -

- (a) as an outgoing manager might have an implied obligation under the appointment contract to surrender immediately after his appointment ended any movable property in respect of the control, management and administration of the building that was under his control or in his custody or possession, it would be against the owners' interest if he was given 14 days to do so as proposed by the Administration;
- (b) paragraph 8 of the Seventh Schedule should be amended to the effect that the outgoing manager had to -
 - (i) deliver, immediately after his appointment ended, to the owners' committee or the manager appointed in his place any keys in respect of the control, management and administration of the building that was under his control or in his custody or possession; and
 - (ii) deliver, within 14 days after his appointment ended, to the owners' committee or the manager appointed in his place any books or records of account, papers, documents and other records in respect of the control, management and administration of the building that was under his control or in his custody or possession.

Action

Borrowing power of owners' corporations (OCs)
[Item W of LC Paper No. CB(2)2368/05-06(01)]

6. Members noted that it was the Administration's position that the current proposal set out in its paper [LC Paper No. CB(2)1049/05-06(01)] was workable but it might not be very useful to OCs because OCs could make use of other support measures introduced in recent years to carry out demolition, alteration, repair or improvement works of the building for the purpose of complying with statutory directions, notices or order. Members, however, in general were of the view that subject to the detailed consideration of the merits of the proposal, the relevant borrowing power should be made available to OCs if appropriate. Members agreed that the Bills Committee should study the proposal at the next meeting to be held on Thursday, 28 September 2006, at 10:45 am and the Clerk should notify members accordingly.

Clerk

Recording at owners' meetings
[Item B of LC Paper No. CB(2)3038/05-06(01)]

7. The Administration was requested to seek clarification from the Privacy Commissioner with regard to the legal advice that video-recording or audio-recording of the proceedings of a meeting by attendees of the meeting amounted to collection of personal data under the Personal Data (Privacy) Ordinance and, if Data Protection Principles did apply to the situation where video-recording or audio-recording was conducted at owners' meetings, whether the Principles were considered to have been complied with by merely requiring owners to decide on the matter by passing a resolution at an owners' meeting.

Admin

Allowing owners to attend meetings of management committees (MCs)
[Item E of LC Paper No. CB(2)3038/05-06(01)]

8. The Chairman suggested that MCs should be required under the Building Management Ordinance to display in a prominent place in the building the agendas of their meetings within a specified period of time before the meetings were held so that owners could express their views on the subject matters to be discussed. Ms Emily LAU expressed support for the Chairman's suggestion. The Administration agreed to consider.

Admin

Copying charge
[Item I of LC Paper No. CB(2)3038/05-06(01)]

9. The Administration was requested to provide information on the copying costs generally charged by MCs for providing copies of documents to owners in the relevant code of practice for OCs/owners' reference.

Admin

Action

III. Any other business

Rescheduling of meetings

10. Members agreed that the meetings originally to be held on 12 and 19 October 2006 would be re-scheduled for 17 October 2006 at 10:45 am and 23 October 2006 at 2:30 pm respectively.

[Post-meeting note : an updated meeting schedule was issued vide LC Paper No. CB(2)3074/05-06 dated 22 September 2006.]

11. There being no other business, the meeting ended at 12:45 pm.

Council Business Division 2
Legislative Council Secretariat
25 October 2006

**Proceedings of the Bills Committee on
Building Management (Amendment) Bill 2005
on Thursday, 21 September 2006, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000414	Chairman	<u>Confirmation of minutes of meetings on 13 and 20 June 2006</u> [LC Paper Nos. CB(2)3033/05-06 and CB(2)3034/05-06]	
000415 - 001304	Admin Chairman Ms Miriam LAU Ms Emily LAU	<u>Re-scheduling of meetings in October 2006</u>	
001305 - 002002	Chairman Admin Mr WONG Kwok-hing Ms Miriam LAU	<u>Discussion on the paper entitled "Consolidated response - the Administration's response to members' suggestions/views"</u> [LC Paper No. CB(2)2368/05-06(01)] Item S: <u>Regulation of property management companies</u>	
002003 - 002123	Chairman Admin	Item T: <u>Termination of appointment of the manager appointed under deed of mutual covenant (DMC)</u>	
002124 - 004607	Chairman Admin Miss CHOY So-yuk Mrs Selina CHOW Mr WONG Kwok-hing Ms Miriam LAU	Item U : <u>Obligations after manager's appointment ends</u>	Admin to revise its proposal (para. 5 of minutes)
004608 - 004820	Chairman Admin Mr WONG Kwok-hing	Item V : <u>Resolving problems arising from DMC provisions</u>	
004821 - 012905	Chairman Admin Mr WONG Kwok-hing Ms Emily LAU Mrs Selina CHOW Ms Miriam LAU Mr Alan LEONG Mr Jasper TSANG	Item W : <u>Borrowing power of Owners' Corporations (OCs)</u>	Clerk to issue notices (para. 6 of minutes)

Time marker	Speaker	Subject	Action required
012906 - 015049	Chairman Admin ALA4 Mr Alan LEONG Ms Emily LAU Mrs Selina CHOW Mr Jasper TSANG	<p>Discussion on the paper entitled “<u>Supplementary Consolidated Response - The Administration’s response to Members’ suggestions/views</u>” [LC Paper No. CB(2)3038/05-06(01)]</p> <p>Item A: <u>Annual General Meeting of an OC</u></p> <p>Item B: <u>Recording at owners’ meetings</u></p> <p>Item C : <u>Keeping of proxy instruments</u></p> <p>Item D : <u>Period of notice for convening an management committee (MC) meeting</u></p> <p>Item E : <u>Allowing owners to attend MC meetings</u></p> <p>Item F : <u>Appointment of an MC member on a full-time basis</u></p>	<p>Admin to seek clarification with the Privacy Commissioner and to consider the Chairman’s suggestion. (paras. 7 & 8 of minutes)</p>
015050 - 015555	Chairman Admin Ms Emily LAU	Item G : <u>Inspection of documents</u>	
015556 - 015814	Chairman Admin Ms Emily LAU	Item I : <u>Copying charge</u>	<p>Admin to provide information for OCs/owners’ reference (para. 9 of minutes)</p>
015815 - 015856	Chairman Admin	Item L : <u>Lands Tribunal</u>	
015857 - 015913	Chairman	Date of next meeting	