

**立法會**  
**Legislative Council**

LC Paper No. CB(2)224/05-06  
(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 Monday, 10 October 2005 at 10:45 am  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)  
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 Abraham SHEK Lai-him, JP  
Hon WONG Kwok-hing, MH  
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 Margaret NG  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon Andrew CHENG Kar-foo  
Hon Albert CHAN Wai-yip  
Hon Audrey EU Yuet-mee, SC, JP  
Hon LI Kwok-ying, MH
- 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

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**I. Proposed meeting schedule**  
(LC Paper No. CB(2)20/05-06)

The Bills Committee agreed to the proposed meeting schedule, according to which the Bills Committee would hold two meetings each month from November 2005 to June 2006.

[*Post-meeting note* : the meeting schedule was issued vide LC Paper No. CB(2)20/05-06 on 12 October 2005.]

**II. Meeting with the Administration**  
[LC Paper Nos. CB(2)1709/04-05(04), CB(2)1885/04-05(03),  
CB(2)2017/04-05(01) and CB(2)2617/04-05(04)]

Continued discussion of the Administration's responses to questions raised by Miss CHOY So-yuk in her letter dated 25 May 2005

2. The Bills Committee deliberated the Administration's responses to questions 23 to 25 raised in Miss CHOY So-yuk's letter dated 25 May 2005 and the Administration's paper entitled "Alternative dispute resolution for building management disputes" (Index of proceedings at **Annex**).

New proposals of the Administration

*Amendment to the Chinese translation for the term "majority" in the Building Management Ordinance (BMO)*

3. With reference to paragraphs 7 to 8 of LC Paper No. CB(2)2617/04-05(04), the Administration informed the Bills Committee that having discussed

Action

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with the Department of Justice, and noting that a number of Ordinances had used the term “過半數” as the Chinese translation of the term “majority” (instead of “多數”), the Administration proposed to amend the Chinese translation of the term “majority” in BMO to “過半數”. Subject to members’ views, the Administration would introduce Committee Stage amendments (CSAs) as appropriate.

Clauses 4 to 7 and 19 and 36 of the Bill on the appointment of management committee (MC)

Admin

4. With reference to paragraphs 9 to 12 of LC Paper No. CB(2)2617/04-05(04), the Administration informed the Bills Committee that given the practical problem of appointment to MCs under a “majority” voting system, the Administration proposed that the “first past the post” voting system should be adopted in the appointment of individual MC members in BMO, i.e. those who received the highest number of votes would be appointed as MC members and there was no need to obtain an over 50% majority support. Subject to members’ views, the Administration would introduce CSAs as appropriate.

Administration’s responses to issues raised at the meeting

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5. The Administration was requested to provide responses or information to the following concerns and suggestions raised by members –

*Mechanism for resolving problems arising from provisions of old deeds of mutual covenant (DMCs) which were unreasonable and unfair to owners*

- (a) to provide a report to the Panel on Home Affairs once the Administration had worked out some details of a proposed mechanism for resolving building management and maintenance problems caused by old DMC provisions;

*Regulation of property management companies*

- (b) to provide an information paper on the Administration’s plan to conduct a feasibility study, which would commence in one to two months’ time, on introducing a regulatory framework for property management companies;

*Alternative dispute resolution for building management disputes*

- (c) to consider a suggestion of revamping the mode of mediation in such a way that, instead of asking the parties in dispute to go to the mediation centre, mediators could attend meetings of the owners’ corporation (OC) concerned so that the mediation mechanism could be brought into OC meetings; and

Action

- (d) to consider introducing a mandatory mechanism of mediation for dealing with certain types of building management disputes e.g. disputes only involving individual owners, or involving a small amount of money or of certain nature such as water seepage, nuisance or trespassing cases.

6. Regarding conflicts arising from building management disputes, members agreed that the Bills Committee might follow up the concern about the Police's role in resolving these conflicts at its future meetings as appropriate.

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

Council Business Division 2  
Legislative Council Secretariat  
4 November 2005

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

Time marker	Speaker	Subjects	Action required
000000-000359	Chairman Ms Emily LAU	<u>Meeting schedule of the Bills Committee</u>	
000400-000649	Admin Chairman Admin	<u>Continued discussion of the Administration's responses to questions raised by Miss CHOY So-yuk in her letter dated 25 May 2005</u>  The Bills Committee deliberated the Administration's responses [LC Paper No. CB(2)1885/04-05(03)] to questions 23 to 25 raised in Miss CHOY So-yuk's letter dated 25 May 2005 [LC Paper No. CB(2)1709/04-05(04)].	
000650-003527	Mr WONG Kwok-hing Chairman Admin	<u>Interpretation of the term "majority" used in the Building Management Ordinance (BMO) and the Administration's proposal to amend the method of voting for appointment of members to a management committee (MC).</u> [Paragraphs 1-12 of LC Paper No. CB(2)2617/04-05(04)]  The Administration's view that the "majority rules" principle should be retained in the selection of tenders and the reasons. [Paragraphs 13-15 of LC Paper No. CB(2)2617/04-05(04)]	
003528-004930	Miss TAM Heung-man Admin Chairman ALA4	<u>Mechanism for resolving problems arising from provisions of old deeds of mutual covenant (DMCs) which were unreasonable and unfair to owners</u>  The Administration was requested to provide a report to the Panel on Home Affairs once it had worked out some details of a proposed mechanism for resolving building management and maintenance problems caused by old DMC provisions.  Senior Government Counsel's and ALA's views on whether it was outside the scope of the Bill to move amendments to BMO to provide for a mechanism for resolving problems arising from old DMCs.	<b>Admin. to provide a report to the Panel on Home Affairs (para. 5(a)).</b>

Time marker	Speaker	Subjects	Action required
004931-013614	Miss CHOY So-yuk Admin Chairman Mr WONG Kwok-hing Ms Emily LAU	<p><u>Practical problems encountered in using the “majority rules” principle in the selection of tenders</u></p> <p><u>Administration’s study on the feasibility of introducing regulatory control of property management companies</u></p> <p>The Administration was requested to provide an information paper on its plan to conduct a feasibility study on introducing a regulatory framework for property management companies.</p>	<b>Admin. to provide an information paper (para. 5(b)).</b>
013615-013920	Mr Patrick LAU Admin	<p><u>Alternative dispute resolution for building management disputes</u> [LC Paper No. CB(2)2017/04-05(01)]</p> <p>Briefing by the Administration on the proposed Building Affairs Tribunal and its view on the feasibility of introducing a mandatory mechanism of mediation in judicial proceedings for dealing with building management cases.</p>	
013921-014436	Mr WONG Kwok-hing Chairman	Proposal to introduce a mandatory mechanism of mediation in judicial proceedings for dealing with certain types of building management disputes.	<b>Admin. to provide response (para. 5(c)).</b>
014437-020422	Ms Emily LAU Mr Alan LEONG Mr LEUNG Kwok-hung Admin Chairman	<p>Suggestion of revamping the mode of mediation.</p> <p>Concern about the lack of assistance rendered by Police officers during building management disputes which had allegedly involved assaults.</p>	<b>Admin. to provide response (para. 5(d)).</b>