

立法會
Legislative Council

LC Paper No. CB(2)636/06-07
(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, 9 November 2006, 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 CHOY So-yuk, JP
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LEUNG Kwok-hung
Hon Patrick LAU Sau-shing, SBS, JP
Hon TAM Heung-man
- Members absent** : Hon Albert HO Chun-yan
Hon Emily LAU Wai-hing, JP
Hon LI Kwok-ying, MH, JP
Hon Alan LEONG Kah-kit, SC
- 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)298/06-07 and CB(2)299/06-07]

The minutes of the meetings held on 28 September 2006 and 5 October 2006 were confirmed.

II. Meeting with the Administration

[LC Paper Nos. CB(3)477/04-05, CB(2)3140/05-06(01) and (02)]

Clause-by-clause examination of the Bill

2. The Bills Committee completed examination of clause 21 to clause 23(f) of the Bill, together with relevant Committee Stage amendments (CSAs) proposed by the Administration. (Index of proceedings attached in **Annex**).

Proposed new Schedule 1A

3. Mr WONG Kwok-hing requested to put on record the Administration's following advice -

- (a) the Bill did not require the signature in Form 1 or Form 2 of Schedule 1A and that appeared on the title deed to be the same; and
- (b) if the owner was a body corporate, Form 1 or Form 2 of Schedule 1A would have to be sealed or stamped with the seal or stamp of the body corporate and signed by a person authorised by the body

Action

corporate. There was no need for the body corporate to provide proof of authorisation, such as relevant minutes of meeting.

Admin

4. In order to facilitate the appointment of proxy by owners, the Administration was requested to include the following information in its guidelines for reference by the owners' corporations (OCs) and owners -

- (a) how far an owner had included additional information in Form 1 or Form 2 of Schedule 1A that would render relevant proxy instrument invalid; and
- (b) the new requirements that a proxy instrument should be lodged not less than 48 hours before the time for the holding of the owners' meeting, and that the proxy instrument had to be signed by the owner concerned.

The Administration informed the Bills Committee that, after passage of the Bill, it would provide for reference by OCs and owners a set of questions and answers concerning the appointment of a management committee (MC), as well as a sample notice of meeting which would contain detailed guidelines on what should be regarded as a valid proxy instrument.

Admin

5. The Administration agreed to revise Form 1 and Form 2 in Schedule 1A in accordance with the following suggestions raised by members -

- (a) to add "[name(s) of owner(s)]" after "I/We,";
- (b) to add "(name of proxy)" after " hereby appoint";
- (c) to delete "of(name of building),"; and
- (d) to substitute "(Signed)" with "(Signed by owner(s))".

Admin

6. The Administration was requested to consider whether the phrase "OR PARAGRAPH 8 OF SCHEDULE 8 TO" should be deleted as proposed in the heading of Form 1, so that the statutory format of the proxy instruments would also be applicable to meetings of owners' committee. Members agreed to discuss the issue when the Bills Committee examined the proposed amended Schedule 8.

Amended paragraph 1 and proposed new paragraph 1B of Schedule 2

Admin

7. The Administration was requested to review the drafting of the Chinese version of amended paragraph 1(a) of Schedule 2 to the effect that the references to the number of flats of a building would not be put in brackets.

Action

- Admin 8. The Administration was requested to consider -
- (a) merging amended paragraph 1 and proposed new paragraph 1B to enhance clarity of the relevant provisions; and
 - (b) whether it was necessary to add new provisions to expressly provide for the voting system for passing resolutions at general meetings of the OC on the number of persons of an MC.

Regarding paragraph 8(b) above, whilst Miss CHOY So-yuk supported the adoption of the simple or relative majority system, the Chairman favoured the majority voting system.

- Admin 9. The Chairman requested the Administration to consider whether it was necessary to put "Determination of the number of persons of the MC" as the first item on the agenda of the relevant general meeting of the OC, preceding "Appointment of MC" as the second item.

Proposed new paragraphs 2(1)(a), (b) and (c) of Schedule 2

- Admin 10. The Administration informed the Bills Committee that additional CSAs would be introduced to the relevant provisions to provide for the application of the simple or relative majority system to the appointment of members of MC as previously agreed by the Bills Committee.

Proposed new paragraph 2(1A)(b)(ii) of Schedule 2

- Admin 11. The Administration was requested to consider the Chairman's concerns that, in stipulating that it was "the person who presides at the meeting" to determine the result by drawing lots as currently drafted, it would allow no flexibility for owners to appoint another person to draw lots under any circumstances where such a need arose.

Amended paragraph 3 of Schedule 2

12. The Chairman, Mr LEUNG Kwok-hung and Miss CHOY So-yuk were of the view that, although the proposed provision would have the benefit of avoiding creation of a management vacuum after incumbent members' terms of office had come to an end and before a new MC was appointed, incumbent members should only be allowed to hold office for a maximum period of time, say, 30 to 40 months, to be stipulated in the legislation, even if no members of a new MC were appointed under paragraph 5(2)(a).

Action

- Admin 13. The Chairman requested the Administration to consider amending the relevant provision to such an effect. He added that the Bills Committee might consider moving CSAs for the purpose, if the Administration declined to do so.

Proposed new paragraph 4(3A) of Schedule 2

- Admin 14. The Administration was requested to review the drafting of the Chinese version of the proposed provision to address members' concern about the ambiguity of the expression "停任".

IV. Any other business

15. Members noted that the next meeting would be held on Thursday, 16 November 2006, at 4:30 pm.
16. There being no other business, the meeting ended at 4:25 pm.

Council Business Division 2
Legislative Council Secretariat
12 December 2006

**Proceedings of the meeting of Bills Committee on
Building Management (Amendment) Bill 2005
on Thursday, 9 November 2006, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000317	Chairman	Confirmation of minutes	
000318 - 003959	Chairman Admin Mr WONG Kwok-hing Miss CHOY So-yuk	Clause-by-clause examination of the Bill and scrutiny of the Committee Stage amendments (CSAs) proposed by the Administration [The Bill and LC Paper Nos. CB(2)3140/05-06(01) & (02)] <u>Clause 22 and CSAs proposed by the Administration</u> Proposed new Schedule 1A	Admin to include relevant information in guidelines and to revise Form 1 and Form 2 of Schedule 1A (paras.4 & 5 of minutes) Admin to review heading of Form 1 (para. 6 of minutes)
004000 - 005214	Chairman Admin Mr WONG Kwok-hing Miss CHOY So-yuk	<u>Clause 23(a) to (c) and CSAs proposed by the Administration</u> Amended paragraph 1 and proposed new paragraph 1B of Schedule 2	Admin to review drafting of the Chinese version of amended paragraph 1(a) (para. 7 of minutes) Admin to review amended paragraph 1 and proposed new paragraph 1B and to consider the Chairman's view (paras. 8&9 of minutes)
005215 - 010114	Miss CHOY So-yuk Chairman Admin	<u>CSAs proposed by the Administration</u> Proposed new subsections 40C(12) &(14)	

Time marker	Speaker	Subject	Action required
010115 - 011109	Miss CHOY So-yuk Admin Chairman	<u>Clause 23 and CSAs proposed by the Administration</u> Amended paragraph 1 and proposed new paragraph 1B of Schedule 2 Existing paragraph 1A of Schedule 2	
011110 - 012159	Chairman Admin Miss CHOY So-yuk Mr LEUNG Kwok-hung	<u>Clause 23 and CSAs proposed by the Administration</u> Proposed new subparagraphs 2(1), (1A)&(2A)	Admin to move CSAs (paras. 10 of minutes)
012200 - 012559	Chairman Admin	<u>Clause 23 and CSAs proposed by the Administration</u> Proposed new subparagraph 2(3) <u>CSAs proposed by the Administration</u> Proposed new subparagraph 2(1A)(b)(ii)	Admin to consider the Chairman's concerns (para. 11 of minutes)
012600 - 012914	Chairman Admin	<u>Clause 23 and CSAs proposed by the Administration</u> Proposed new subparagraph 2(4)	
012915 - 014725	Chairman Admin Miss CHOY So-yuk Mr LEUNG Kwok-hung	<u>Clause 23</u> Amended paragraph 3 of Schedule 2	Admin to consider members' views and suggestion (para. 13 of minutes)
014726 - 015425	Chairman Admin Miss CHOY So-yuk	<u>Clause 23 and CSAs proposed by the Administration</u> Amended paragraph 4 of Schedule 2	Admin to consider Miss CHOY So-yuk's concern (para. 14 of minutes)
015426 - 015448	Chairman	Date of next meeting	