

立法會
Legislative Council

LC Paper No. CB(2)733/06-07
(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, 16 November 2006, at 4:30 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 Emily LAU Wai-hing, 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 Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Prof Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** : Hon Albert HO Chun-yan
Hon LI Kwok-ying, MH, JP
Hon TAM Heung-man
- 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)351/06-07 and CB(2)352/06-07]

The minutes of the meetings on 17 and 24 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 23(g) to clause 23(h)(ii) of the Bill, together with relevant Committee Stage amendments (CSAs) proposed by the Administration. (Index of proceedings attached in **Annex**).

Proposed new paragraph 1B of Schedule 2

Admin 3. The Administration was requested to confirm whether a management committee (MC) could determine the size of its membership if an owners' corporation (OC) had not done so by resolution.

Amended paragraph 6 of Schedule 2

Admin 4. The Administration was requested to consider the following concerns/suggestions raised by members and review the proposed arrangements for filling of vacancies of an MC -

Action

- (a) an MC should notify owners of any casual vacancy arising in the MC;
- (b) an MC could appoint an owner to fill the vacancy after notifying owners of the proposed appointment, and a notice of the appointment should be issued after it was made; and
- (c) if the office of the chairman of an MC became vacant, an appointment to fill the vacancy must be made by a resolution passed at a general meeting of the corporation within six months after the vacancy had arisen, and the MC could appoint amongst themselves a person to act as the chairman in the interim period.

Admin

5. The Administration was also requested to review the drafting of the amended paragraph 6 to address members' concerns as follows -

- (a) whether the proposed new paragraphs 6(1), (3) and (4) as presently drafted could reflect the policy intent that the appointment made by the OC in filling a vacancy in an MC would be overriding;
- (b) to consider adding "作出委任" after "如沒有如此舉行法團業主大會" in proposed new paragraphs 6(3)(b) and (4)(b) for the purpose of clarity and making corresponding changes to the English version as appropriate; and
- (c) to consider the need for stipulating procedures for the dismissal of the owner who had been appointed by the MC to fill a vacancy but whose appointment was disputed by the OC.

Proposed new paragraph 6A of Schedule 2

Admin

6. The Administration was requested to -

- (a) consider Miss CHOY So-yuk's suggestion of stipulating in the Building Management Ordinance that, where the number of vacancies in an MC was more than 50% of its membership, the remaining members of the MC would be required to convene a general meeting of the corporation, within a specified time limit, for the sole purpose of filling the vacancies in the MC; and
- (b) provide the judgment relating to the quorum of an MC and details of the relevant case.

[*Post-meeting note*: relevant judgment provided by the Administration was issued to members vide LC Paper No CB(2)411/06-07 on 20

Action

November 2006. The Administration's advised in writing on 20 November 2006 that details of the court case had been set out in paragraph 3 of the Administration's paper entitled "Quorum of a Management Committee and Other Related Matters" [LC Paper No CB(2)1182/05-06(01)].

Amended paragraph 8 of Schedule 2

Admin

7. The Administration was requested to consider -
- (a) Miss CHOY So-yuk's view that it was too harsh to require that a meeting of an MC had to be held within only 21 days of receiving such request under paragraph 8(1)(b);
 - (b) deleting "14天內召開, 並在收到該要求後" in paragraph 8(1)(b) and making corresponding changes in the English version as appropriate;
 - (c) the Chairman's concern about the operation of paragraph 8(1) as the chairman of an MC might refuse to discuss items proposed by the two members who requested to convene the meeting under paragraph 8(1)(b); and
 - (d) Mr WONG Kwok-hing's suggestion of stipulating the respective authority and responsibilities of the chairman and the secretary of an MC in convening a meeting under paragraph 8(1)(b).

IV. Any other business

Future meeting schedule

8. The Bills Committee agreed to schedule additional meetings for the following dates -

- (a) 7 December 2006 at 2:30 pm;
- (b) 14 December 2006 at 4:30 pm; and
- (c) 18 December 2006 at 8:30 am

(Post-meeting note: an updated meeting schedule was issued vide LC Paper No. CB(2)404/06-07 on 17 November 2006.)

9. Members noted that the next meeting would be held on Tuesday, 21 November 2006, at 4:30 pm.

Action

10. There being no other business, the meeting ended at 6:40 pm.

Council Business Division 2
Legislative Council Secretariat
27 December 2006

**Proceedings of the meeting of Bills Committee on
Building Management (Amendment) Bill 2005
on Thursday, 16 November 2006, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 – 000109	Chairman	Confirmation of minutes	
000110 – 000523	Chairman Ms Miriam LAU	Future meeting schedule	
000524 – 002009	Chairman Admin 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 23 and CSAs proposed by the Administration</u> Amended paragraph 5 of Schedule 2 Proposed new paragraph 1B	Admin to consider the Chairman's concerns (para. 3 of minutes)
002010 – 002832	Chairman Admin Miss CHOY So-yuk Ms Margaret NG	<u>CSAs proposed by the Administration</u> Amended paragraph 5A of Schedule 2	
002833 – 071734	Chairman Admin Miss CHOY So-yuk Mrs Selina CHOW Ms Margaret NG	<u>CSAs proposed by the Administration</u> Amended paragraph 6 of Schedule 2	Admin to review proposed arrangements and drafting issues (paras. 4 & 5 of minutes)
011735 – 013914	Chairman Admin Mrs Selina CHOW Miss CHOY So-yuk Mr WONG Kwok-hing Ms Emily LAU Mr LEUNG Kwok-hung	<u>CSAs proposed by the Administration</u> Proposed new paragraph 6A of Schedule 2	Admin to consider Miss CHOY So-yuk's suggestion (para. 6 of minutes)
013915 – 015503	Chairman Admin Miss CHOY So-yuk Ms Emily LAU Mr WONG Kwok-hing	<u>Clause 23(h) and CSAs proposed by the Administration</u> Amended paragraph 8 of Schedule 2	Admin to consider members' concerns/suggestion (para. 7 of minutes)

Time marker	Speaker	Subject	Action required
015504 – 015525	Chairman	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
27 December 2006