

立法會
Legislative Council

LC Paper No. CB(2)631/05-06
(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 Thursday, 17 November 2005 at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon Albert HO Chun-yan
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 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 LEUNG Kwok-hung
Hon TAM Heung-man
- Members absent** : Hon Abraham SHEK Lai-him, JP
Hon Patrick LAU Sau-shing, SBS, JP
- 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. Meeting with the Administration
[LC Paper No. CB(2)2192/04-05(01)(Revised)]

The Bills Committee deliberated paragraphs 1 to 13 of the Administration's responses to matters arising from the meeting on 14 June 2005 [LC Paper No. CB(2)2192/04-05(01)(Revised)] (Index of proceedings at **Annex**).

Mechanism for terminating the appointment of managers

2. While Mrs Selina CHOW said that the Liberal Party accepted the current threshold of 50% of shares of owners for terminating the appointment of managers, a majority of members considered that the current threshold was too high. Mr Albert CHAN said that he condemned the Government for compromising the collective interests of small owners by repeatedly refusing to lower the threshold and requested that his view be recorded. Members proposing to lower the threshold made the following suggestions –

- (a) the threshold should be revised as 50% of the owners present at a meeting of the owners' corporation (OC);
- (b) the threshold should be lowered to 30% of shares of owners as section 3 of the Building Management Ordinance (BMO) only required a resolution of owners of not less than 30% of the shares for the formation of OC. It was illogical that owners could not terminate the appointment of the manager on the basis of the same threshold;

Action

- (c) a lower threshold should be adopted only for terminating the appointment of contract managers whose contract with OCs did not specify a contract period; and
- (d) the voting rights of owners for the termination of the appointment of the manager should be determined on the basis of management shares instead of undivided shares.

Admin

3. At members' request, the Administration undertook to consult representatives of OCs and professional bodies on the proposal of lowering the threshold to 30% of shares of owners.

Clerk

4. On paragraph 2(d), the Clerk was requested to ascertain whether the suggestion had been discussed at meetings of the former Subcommittee on Review of the Building Management Ordinance and provide relevant records if any.

Deeds of Mutual Covenant

Admin

5. The Administration was requested to take note of the Chairman's comments that it was possible for a developer to avoid the regulation of the Legal Advisory and Conveyancing Office and the Law Society of Hong Kong by drawing up a deed of mutual covenant without engagement of a solicitor for the work.

Obligations after the end of the manager's appointment

Admin

6. The Administration was requested to consider –
- (a) shortening the period within which the manager had to deliver 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 were under his control or in his custody or possession in paragraph 8(b) of the Seventh Schedule to BMO;
 - (b) revising paragraph 8(b) of the Seventh Schedule by adding “, equipment and items” after “other records”; and
 - (c) the need for introducing a penalty clause for non-compliance of the manager with the statutory obligations.

Date of next meeting

7. Members noted that the next meeting would be held on 1 December 2005 at 10:45 am.

Action

8. There being no other business, the meeting ended at 12:40 pm.

Council Business Division 2
Legislative Council Secretariat
8 December 2005

**Proceedings of the Bills Committee on
Building Management (Amendment) Bill 2005
on Thursday, 17 November 2005 at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
000000 - 001039	Chairman Admin	<u>Deeds of Mutual Covenant (DMCs)</u> [Paragraphs 4 – 8 of LC Paper No. CB(2)2192/04-05(01)(Revised)]	Admin to take note of the Chairman's comments (para. 5 of the minutes)
001040 - 012310	Ms Audrey EU Chairman Miss TAM Heung-man Mrs Selina CHOW Miss CHOY So-yuk Mr Albert HO ALA4 Admin Ms Emily LAU Mr Albert CHAN Mr LEUNG Kwok-hung Mr Alan LEONG Mr WONG Kwok-hing	<u>Discussion on the current threshold of 50% of shares of owners for terminating the appointment of the building manager</u> [Paragraphs 2 – 3 of LC Paper No. CB(2)2192/04-05(01)(Revised)]	Admin to consult parties concerned on the proposal of lowering the threshold (para. 3 of the minutes)
012311 - 013218	Chairman Miss CHOY So-yuk Mr Albert CHAN Admin	<u>Right of the developer or major owner of a building</u> [Paragraphs 9 – 11 of LC Paper No. CB(2)2192/04-05(01)(Revised)] Suggestion for the Administration to consider introducing a mechanism under which the voting rights of owners for the termination of the appointment of the building manager would be determined on the basis of management shares instead of undivided shares. [Paragraph 11 of LC Paper No. CB(2)2192/04-05(01)(Revised)]	The Clerk to provide relevant records of discussion of the former Subcommittee on Review of the Building Management Ordinance, if any (para. 4 of minutes)
013219 - 015225	Chairman Admin Mr WONG Kwok-hing	<u>Obligations after the end of the manager's appointment</u> [Paragraphs 12 – 13 of LC Paper No. CB(2)2192/04-05(01)(Revised)]	Admin to consider members' suggestions (para. 6 of the minutes)

Time marker	Speaker	Subjects	Action required
015226 - 015236	Chairman	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
8 December 2005