

**立法會**  
**Legislative Council**

LC Paper No. CB(2)788/06-07

(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 Tuesday, 21 November 2006, at 4:30 pm  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)  
Hon Albert HO Chun-yan  
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 Abraham SHEK Lai-him, JP  
Hon Albert CHAN Wai-yip  
Hon WONG Kwok-hing, MH  
Hon LI Kwok-ying, MH, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon TAM Heung-man
- Members absent** : Hon Margaret NG  
Hon Andrew CHENG Kar-foo  
Hon Audrey EU Yuet-mee, SC, JP  
Prof 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

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Action

**I. 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

The Bills Committee completed examination of clause 23(h)(iii) to clause 28(f) of the Bill, together with relevant Committee Stage amendments (CSAs) proposed by the Administration. (Index of proceedings attached in **Annex**).

*Amended paragraph 8(2A) of Schedule 2*

Admin 2. The Administration informed members that a CSA would be proposed to further amend paragraph 8(2A) because the provision as presently drafted did not cater for a situation that the secretary or the treasurer of a management committee (MC) was not a member of the MC.

*Amended paragraph 10(4B) of Schedule 2*

Admin 3. The Administration was requested to consider Miss CHOY So-yuk's suggestion that it should be clearly stipulated in the proposed provision that, if the person presiding over the meeting of an MC did not certify the minutes of the meeting as a true record of the proceedings of the meeting within 28 days, the secretary could still display the uncertified minutes. The Chairman, however, considered that operational arrangements should be specified in the guidelines instead of the legislation in order to avoid making the provision too complicated.

Action

(*Post-meeting note:* The Administration will include this in the guidelines to be issued after the passage of the Bill.)

*Amended paragraph 1(2) of Schedule 3*

4. Miss CHOY So-yuk expressed concern that the requirement imposed on an MC to hold the general meeting within 35 days of receiving the request of not less than 5% of the owners would be too harsh as the MC might have difficulties in finding a suitable meeting venue. She considered it more appropriate to amend the time limit as "three months".

5. The Administration advised that, if an MC held the general meeting after the statutory time limit, it would not necessarily affect the legal validity of that meeting. The court would consider the circumstances of each particular case if the legal validity of a general meeting was challenged. A majority of members were of the view that, as most MCs had complied with the statutory requirement of holding a general meeting within 14 days of receiving the request of not less than 5% of the owners, the period for the time limit should not be set too long as it might be subject to abuse. The Administration was requested to move a CSA to substitute "35 days" with "30 days".

Admin

*Proposed new subparagraph 4(5) of Schedule 3*

6. The Administration was requested to advise OCs in the relevant guidelines that, if a proxy instrument received was found invalid, the secretary of an MC should chop "invalid" on the instrument received, specify the reason(s) accordingly and deposit it in the letter box for the flat of the owner who made the instrument. The Administration was also requested to provide a sample of such a proxy instrument in the guidelines for OCs' reference.

Admin

Admin

*Amended paragraph 9 of Schedule 3*

7. The Administration informed members that it would move a CSA to delete paragraph 9 of Schedule 3, as relevant specifications had been provided in section 5B and Schedule 11.

Admin

*Amended heading of Schedule 4 and section 18*

8. The Administration informed members that, after considering members' views, it would move CSAs to amend section 18 and the heading of Schedule 4 to stipulate that only the chairman, vice-chairman, secretary and treasurer of an MC would be eligible for allowances.

Admin

9. While the Chairman and Miss CHOY So-yuk considered that it was not necessary for a chairman, vice-chairman, secretary or treasurer of an MC to be

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paid an allowance, Mr Albert CHAN considered that payment of the allowances should be retained in recognition of the heavy workload handled by relevant office holders of an MC. Members in general agreed with the Administration's suggestion of retaining the allowances as relevant office holders of some MCs had all along been receiving such allowances.

Admin

10. Noting that the honorarium for District Council members was tax-deductible provided that supporting documents could be produced to prove that it had been used for official purposes, members requested the Administration to confirm whether the same principle would apply to the allowances in question.

*Proposed new paragraph 1A(a) of Schedule 6*

11. Ms Miriam LAU expressed concern whether the proposed new paragraph 1A(a) of Schedule 6 as presently drafted would cause administrative burden to MCs, as it would allow all those "of not less than 5% of the owners" to inspect the documents specified therein. The Administration considered that all the 5% owners (who supported the request) and, if the owners so wished, their representatives (who might include any professionals who were non-owners, say, lawyers or accountants) should have the right to inspect the documents under such an empowering provision. It would not be appropriate to restrict the right to only one (or a few) person(s) appointed by these 5% owners. Furthermore, under the existing section 27(2) of the Building Management Ordinance, MC was already required to permit any owner to inspect the books of account at any reasonable time. The Administration considered that the requirement that the request must be supported by 5% owners and the term "at reasonable time" in the provision should be able to avoid unreasonable requests from owners.

*Amended paragraphs 3, 4 and 5 of Schedule 7*

Admin

12. The Administration informed members that, in response to members' views expressed about the procurement by OCs and building managers, section 20A relating to supplies, goods and services would be further amended. The Administration would move CSAs to amend paragraph 5 of Schedule 7 correspondingly.

Admin

13. Miss CHOY So-yuk and Mr WONG Kwok-hing expressed concern that, where a manager did not comply with the requirements related to opening and maintaining bank account, maintaining a special fund and entering into contracts as specified in paragraphs 3, 4 and 5 of Schedule 7 respectively, the owners could only resort to civil proceedings to claim damages against any financial loss. Mr WONG suggested that the Administration should explore, in the course of its feasibility study of setting up a regulatory framework for property management companies, introducing punitive measures for dealing

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with such non-compliances. Miss CHOY considered that a less stringent mechanism requirement should be provided for under paragraph 7 for the termination of the appointment of a building manager if the manager had failed to comply with the relevant requirements.

Admin

14. At the Chairman's suggestion, the Administration was requested to advise OCs/owners in the relevant guidelines that compliance with the relevant requirements should be included as fundamental conditions in the appointment contracts of building managers.

Date of next meeting

15. Members noted that the next meeting would be held on Wednesday, 29 November 2006, at 8:30 am.

16. There being no other business, the meeting ended at 6:30 pm.

Council Business Division 2  
Legislative Council Secretariat  
4 January 2007

**Proceedings of the meeting of Bills Committee on  
Building Management (Amendment) Bill 2005  
on Tuesday, 21 November 2006, at 4:30 pm  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000-000619	Chairman Admin	<b>Clause-by-clause examination of the Bill and scrutiny of the Committee Stage amendments (CSAs) proposed by the Administration</b> [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 8(2A) of Schedule 2	<b>Admin to move CSA</b> (para. 2 of minutes)
000620-000729	Chairman Admin	Amended paragraph 10 of Schedule 2	
000730-000828	Chairman Admin	Proposed new paragraph 10(A) of Schedule 2	
000829-000955	Chairman Admin	Amended paragraph 11 of Schedule 2	
000956-005259	Chairman Admin Ms Miriam LAU Mr WONG Kwok-hing Mr Albert HO Miss CHOY So-yuk Mr Jasper TSANG	<u>Clause 24 and CSA proposed by the Administration</u>  Amended paragraph 1(2) of Schedule 3	<b>Admin to further amend paragraph 1(2)</b> (para. 4 of minutes)
005300-010105	Miss CHOY So-yuk Chairman Admin	<u>CSA proposed by the Administration</u>  Amended paragraph 10(4B) of Schedule 2	<b>Admin to consider Miss CHOY So-yuk's suggestion</b> (para. 3 of minutes)
010106-010210	Chairman Admin	<u>Clause 24 and CSA proposed by the Administration</u>  Amended paragraphs 2 to 3 and proposed new paragraph 4 of Schedule 3	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
010211-011551	Chairman Admin Miss CHOY So-yuk Mr WONG Kwok-hing	<u>CSA proposed by the Administration</u>  Proposed new paragraph 5 of Schedule 3	<b>Admin to strengthen guidelines</b> (para. 6 of minutes)
011552-011810	Chairman Admin	Amended paragraph 9 of Schedule 3	<b>Admin to move CSA</b> (para. 7 of minutes)
011811-012456	Chairman Admin Ms Emily LAU Miss CHOY So-yuk Mr Albert CHAN	<u>Clause 25</u>  Amended Schedule 4	<b>Admin to move CSA and to give response to members' request</b> (paras. 8 & 10 of minutes)
012457-012512	Chairman Admin	<u>Clause 26</u>  Amended Schedule 5	
012513-012835	Chairman Admin Ms Miriam LAU	<u>Clause 27 and CSA proposed by the Administration</u>  Amended Schedule 6	
012836-015254	Chairman Admin Miss CHOY So-yuk Mr WONG Kwok-hing	<u>Clause 28 and CSA proposed by the Administration</u>  Amended Schedule 7	<b>Admin to move CSA and to strengthen relevant guidelines</b> (paras. 12 & 14 of minutes)
015255 - 015312	Chairman	Date of next meeting	