

立法會
Legislative Council

LC Paper No. CB(2)822/05-06
(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, 15 December 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 TAM Heung-man
- Members absent** : Hon Abraham SHEK Lai-him, JP
Hon Patrick LAU Sau-shing, SBS, JP
Hon LEUNG Kwok-hung
- 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)630/05-06 and CB(2)631/05-06]

The minutes of the meetings held on 10 and 17 November 2005 were confirmed.

II. Meeting with the Administration

[LC Paper Nos. CB(2)2017/04-05(02) and CB(2)657/05-06(01)]

2. The Bills Committee deliberated issues relating to the incorporation of owners of house developments (Index of proceedings at **Annex**).

3. On the Administration's position that any committee to be formed which would have the right to manage and maintain the common parts of some house developments which were owned by the developer might amount to interference of property rights and was not legally viable, the Chairman pointed out that the Administration had previously introduced legislative measures to interfere with the rights of minority owners such as the mechanism for termination of appointment of the building manager by a resolution of owners of not less than 50% of the shares. The Administration was requested to explain the difference in nature between the two and the legal consequences the Government would bear if proposed committee was allowed to be formed in law.

4. On the need for a basis for calculating the shares among owners of house developments for the formation of the proposed committee, the Administration was requested to consider resorting to the concept of "notional attribution of shares" in working out a basis of shares to resolve the

Admin

Action

Admin problem of lack of undivided shares. The Administration was also requested to consult owners of Hong Lok Yuen and Fairview Garden on the proper basis of shares and revert to the Bills Committee accordingly.

Admin 5. On the application of the Building Management Ordinance to house developments, Assistant Legal Adviser 4 pointed out that the extended meaning of the word “building” (in section 2 of the Ordinance) covered “any other land (if any) which is in common ownership with that building or land; or in relation to the appointment of a management committee under Part II or any application in respect thereof, is owned or held by any person for the common use, enjoyment and benefit (whether exclusively or otherwise) of the owners and occupiers of the flats in that building”. The Administration was requested to consider whether the common parts of house developments could fall within the scope of this extended meaning even if they were owned by the developer.

Admin 6. The Administration was also requested to confirm whether there were “common parts” between the residential blocks in Fontana Gardens in Wan Chai.

III. Any other business

Date of next meeting

7. Members agreed that as the Council meeting on 21 December 2005 would likely resume on the following day for the continuation of unfinished business, the next meeting originally scheduled for 22 December 2005 would be held on Wednesday, 4 January 2006 at 8:30 am,.

8. There being no other business, the meeting ended at 12:30 pm.

Council Business Division 2
Legislative Council Secretariat
9 January 2006

**Proceedings of the Bills Committee on
Building Management (Amendment) Bill 2005
on Thursday, 15 December 2005 at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
000000 - 004954	Chairman Admin Miss CHOY So-yuk Ms Miriam LAU Mr Albert HO	Proposed formation of a committee (not owners' corporation) for owners of house developments [LC Paper No. CB(2)657/05-06(01)] - what types of powers, duties and liabilities should the proposed committee possess/bear - how should the proposed committee be formed	Admin to provide supplementary information and to consider members' suggestions (Para. 3-4 of the minutes)
004955 - 013950	Ms Audrey EU Admin ALA4 Chairman Mr WONG Kwok-hing Mr Albert CHAN Mrs Selina CHOW Mr Albert HO	ALA4's explanation on the extended meaning of the word "building" (in section 2 of the Building Management Ordinance) as amended in 1993, and the cases of Fontana Gardens and Chun Fai Garden. [LC Paper No. CB(2)2017/04-05(02)]	Admin to consider ALA4's comments (Para. 5 of the minutes)
013951 - 014001	Mrs Selina CHOW Mr Albert HO Chairman	Request for the Administration to conduct consultation with owners of Hong Lok Yuen and Fairview Garden on the proper basis of shares to be adopted for resolving the problem of lack of undivided shares.	Admin to conduct consultation and revert to the Bills Committee (para. 4 of the minutes)
014002 - 014155	Chairman Mrs Selina CHOW Admin	Confirmation of minutes of meetings on 10 and 17 November 2005 and date of next meeting.	