

立法會
Legislative Council

LC Paper No. CB(2)956/06-07

(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 Monday, 18 December 2006, at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LI Kwok-ying, MH, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP

Members absent : Hon Albert HO Chun-yan
Hon Margaret NG
Hon Jasper TSANG Yok-sing, GBS, JP
Hon CHOY So-yuk, JP
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
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 No. CB(2)678/06-07]

The minutes of the meeting on 7 November 2006 were confirmed.

II. Meeting with the Administration

[The Bill, LC Paper No. CB(2)3140/05-06(01) and
CB(2)638/06-07(01)-(03)]

2. The Bills Committee discussed paragraphs 44 to 64 of the Administration's paper [LC Paper No. CB(2)638/06-07(01)], and relevant revised Committee Stage amendments (CSAs) proposed by the Administration. (Index of proceedings attached in **Annex**).

Procurement of third party risks insurance by owners' corporations (OCs)

3. While members raised no objection to the Administration's decision of retaining section 28(3) to empower an OC to procure insurance on fire and other risks for the protection of owners' interests, they suggested that the heading of the new section 28 should be amended to reflect that the procurement of insurance on fire and other risks was not mandatory. The Administration agreed to amend the heading of the new section 28 to reflect that it only covered matters relating to insurance, and not obligations.

4. The Chairman, Ms Audrey EU and Ms Miriam LAU expressed concern that, in order to protect the interests of a third party, there might be a need to require an OC to procure an insurance policy on behalf of the occupiers as well, as the latter might be held liable for the death or injury of a third party that occurred in the building. Ms LAU considered that such a policy was

Admin

Action

desirable also for the sake of protection of all owners of the building, as the OC concerned might be held liable jointly and severally for the death or injury of a third party that occurred in the building even though the court had ruled that the death or injury was largely the responsibility of the occupier. The Administration was requested to re-consider whether "occupiers" in section 28(1) should be retained.

Admin

5. Members did not raise objection to the Administration's proposal that it would consider extending the mandatory requirement of procurement of third party risks insurance to building managers at a later stage as mentioned in paragraph 48 of the Administration's paper. The Administration, however, was requested to consider Mr WONG Kwok-hing's suggestion of requiring property management companies to purchase liability insurance on a mandatory basis in the context of the feasibility study on licensing of property management companies, and to report progress of its study in this regard to the Panel on Home Affairs.

Admin

Terms of a management committee (MC)

6. Ms Emily LAU and Mr WONG Kwok-hing remained of the view that all MCs should convene an annual general meeting to conduct the appointment exercise in a timely manner, failing which the MC should become invalid. Mr WONG considered that it would result in a loop-hole subject to abuse, if the MC was allowed to operate without going through any appointment process. Mr James TO and Mrs Selina CHOW, however, appreciated the Administration's concern that the building might lapse into a state of "anarchy" if the MC became invalid. They considered that a balance had to be struck given that channels were available under BMO for owners to call an urgent owners' meeting or seek an order from the court for appointment of an administrator to replace the existing MC. The Chairman suggested that Mr WONG could consider moving CSAs on his own to the relevant provision.

Self-declaration requirement of MC members

7. The Administration was requested to consider Mrs Selina CHOW's concern that it was too drastic to disqualify irreversibly a member of the MC who failed to submit the declaration form to the secretary within 21 days of the appointment, even though he was able to submit the form soon after the expiry of the 21-day deadline.

Admin

8. Members noted that the next meeting would be held on Monday, 8 January 2007, at 2:30 pm.

9. There being no other business, the meeting ended at 10:30 am.

Action

Council Business Division 2
Legislative Council Secretariat
26 January 2007

**Proceedings of the meeting of Bills Committee on
Building Management (Amendment) Bill 2005
on Monday, 18 December 2006, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000225	Chairman	Confirmation of minutes of meeting	
000226 - 011559	Chairman Admin ALA4 Ms Emily LAU Mrs Selina CHOW Ms Audrey EU Ms Miriam LAU Mr WONG Kwok-hing	Discussion on paragraphs 44 to 64 of the Administration's paper and relevant revised Committee Stage amendments (CSAs) proposed by the Administration [The Bill, LC Paper No. CB(2)3140/05-06(01) and CB(2)638/06-07(01)-(03)] <u>Procurement of third party risks insurance by owners' corporations (OCs)</u>	Admin to re-consider retention of "occupiers" in section 28(1) (para. 4 of minutes) Admin to take follow-up action and report progress to the Panel on Home Affairs (para. 5 of minutes)
011600 - 011729	Chairman Admin	<u>List of building management agents under section 40B</u>	
011730 - 015836	Chairman Admin Ms Emily LAU Mr Wong Kwok-hing Mrs Selina CHOW	<u>Composition and procedure of management committee (MC) (Schedule 2)</u> - size of an MC - "First past the post" voting system - Terms of an MC - Self-declaration requirement of MC members	Admin to consider Mrs Selina CHOW's suggestion (para. 7 of minutes)
015837 - 015916	Chairman Ms Emily LAU	Date of next meeting	