

立法會

Legislative Council

LC Paper No. CB(2)708/04-05

(These minutes have been
seen by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

Minutes of special meeting held on Friday, 12 November 2004 at 10:45 am in the Chamber of the Legislative Council Building

- Members present** : Hon Tommy CHEUNG Yu-yan, JP (Chairman)
Hon TAM Heung-man (Deputy Chairman)
Hon Albert HO Chun-yan
Hon James TO Kun-sun
Hon WONG Yung-kan, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon LI Kwok-ying, MH
Hon Daniel LAM Wai-keung, BBS, JP
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Patrick LAU Sau-shing, SBS, JP
- Members attending** : Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon Albert Jinghan CHENG
- Members absent** : Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Wong-fat, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Albert CHAN Wai-yip
Dr Hon Fernando CHEUNG Chiu-hung
- Public Officers attending** : Dr Patrick C P HO
Secretary for Home Affairs

Mrs Pamela TAN
Director of Home Affairs

Mr Isaac CHOW
Deputy Director for Home Affairs, Home Affairs
Department

Mr LAU Kwok-choi
District Officer (Southern), Home Affairs Department

Mrs Angelina CHEUNG
Assistant Director for Home Affairs, Home Affairs
Department

Attendance by invitation : Hong Kong Federation of Insurers

Mr K P CHAN
Chairman

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)2

Staff in attendance : Ms Joanne MAK
Senior Council Secretary (2)2

Action

- I. The case of Albert House: Measures to protect flat owners from legal liability or claims arising from or in respect of unauthorised building structures or common parts of their buildings**
[LC Paper Nos. CB(2)196/04-05(01)-(02) and CB(2)3065/03-04]

The Chairman welcomed the Secretary for Home Affairs (SHA), the Director of Home Affairs (DHA), other representatives of the Administration, and the chairman of the Hong Kong Federation of Insurers (HKFI) to attend the meeting.

Provision of assistance to the owners of Albert House

Actions taken by the Administration

2. SHA said that the Administration was very concerned about the Albert

Action

House case and the Home Affairs Department (HAD) had been in close contact with the owners of Albert House to provide appropriate assistance since the Court of First Instance ordered on 8 November 2004 the owners' corporation (OC) of Albert House to wind up. He said that the Administration was aware that some of the owners had genuine financial difficulties in contributing to the whole sum of compensation in their respective shares. SHA further briefed members on the follow-up actions taken by HAD in the Albert House case as set out in the Administration's paper.

3. District Officer (Southern) (DO(S)) informed members that since 8 November 2004, a task force had been set up in Southern District Office to follow up the Albert House case. A telephone enquiry hotline had been set up, through which 31 enquires had been made by the owners of Albert House within three days and 16 enquiries by owners and OC members of other buildings. At the briefing on 10 November 2004, owners of Albert House, especially the elderly ones, had expressed concern about the impact of the winding-up order on their property assets and their future accommodation arrangements if they were unable to pay the compensation. He and his colleagues had therefore been in contact with the Social Welfare Department and the Housing Department to help these owners obtain appropriate assistance. DO(S) added that Southern District Office would maintain close contact with the owners and provide appropriate referral service for them, including voluntary legal service and legal aid service, where necessary. Discussions had been held with the building management company and the provisional liquidator with a view to ensuring that the day-to-day building management would be maintained.

4. DO(S) further said that individual owners of Albert House had been contacted to understand their practical difficulties. Assistance would be provided to help the owners of Albert House set up a residents' association. He and his colleagues would keep in close contact with the owners. DO(S) added that any request or enquiry of the owners would be followed up.

5. Mr Albert CHENG said that he and some other Legislative Council (LegCo) Members had earlier met with representatives of the owners of Albert House and found that some of them in the past 10 years had known little about the legal proceedings concerning their building or who their representing lawyers were. Mr Albert CHENG considered that the Administration should have played a more active role in the handling of the Albert House case earlier and provided appropriate assistance to the owners. He believed that had the Administration done so, the owners could have had a better understanding of their legal rights and might be able to avoid incurring the considerable legal costs.

6. DO(S) informed members that the OC of Albert House had all along engaged its own lawyer to undertake litigation for it and the OC had acted in

Action

accordance with the legal advice given by its lawyer. He said that the OC had also convened owners' meetings to seek endorsement for all the decisions in respect of its legal actions, and Southern District Office had been providing assistance to the OC. He pointed out that it was understandable that some owners might not be able to understand the full details of the Albert House case as complicated legal matters were involved.

7. Mr WONG Kwok-hing asked why it was reported by the press that the victims of the fatal accident in the Albert House case still had not received any compensation. Deputy Director for Home Affairs (DD(HA)) informed members the fatal accident occurred in Albert House in August 1994. The Court of First Instance ruled in December 1999 that six parties (one being the OC of Albert House) should be held liable for paying damages to the plaintiffs, and the OC of Albert House should be responsible for 15% of it. However, the total amount of compensation of some \$33 million, including legal fees, was not determined until 2001. The compensation for the victims was being handled by the solicitors appointed by the Legal Aid Department.

8. Mr Albert HO pointed out that as he understood, the compensation was still with the Legal Aid Department because it was necessary to sort out the legal costs involved. He requested DO(S) to assist the victims in obtaining the compensation as part of which should be available by then.

Setting up of a charity fund for owners of Albert House

9. DD(HA) informed members that the Court of Appeal had just handed down its judgment at about 10:00 am. It had upheld the Court of First Instance's decision that the OC of Albert House had to share out the damages left unpaid by the insolvent parties.

10. Mr WONG Kwok-hing said that he was very sympathetic to the owners of Albert House as many of them were the elderly. He pointed out that the owners were most dissatisfied that they had been asked to pay compensation more than once. Mr WONG considered it unfair that owners of Albert House had to bear unlimited liabilities arising from the accident occurred in the building in 1994. He requested the Administration to respond to the owners' request for setting up a charity fund to help them pay compensation to the major owner of Albert House.

11. SHA responded that while he was also sympathetic to the owners, he had to adopt a sensible and pragmatic approach in solving their problems. He said that the Administration had to consider whether it was appropriate to use public money to set up a charity fund to help the owners. He said that the owners were most dissatisfied that they were ordered by the court to pay additional amount of compensation, after they had already paid their initial share. SHA said that the Administration would study the judgment of the

Action

Court of Appeal and consider whether an application for appeal to the Court of Final Appeal (CFA) should be made by the owners.

12. SHA further said that the Administration could also explore other options, including mediating between the owners with the major owner to ascertain whether the compensation could be reduced or paid by installment, or helping the owners arrange for mortgages to obtain loans. SHA added that as a last resort, the option of establishing a charity fund through donation from the community might be considered.

13. Mr WONG Kwok-hing asked what the Administration would do as the first step to render assistance to owners of Albert House. SHA replied that the Administration should firstly sort out whether it was justified from a legal point of view to require the owners to shoulder additional legal liabilities and, if so, the exact amount to be paid by the owners.

14. Mr Albert HO said that he also considered it unfair to require the owners of Albert House to pay compensation again, given that they had paid it once in accordance with the court's decision in 1999. He further said that he had discussed the case with legal experts and learnt that in this case, the Court of First Instance had made its ruling on basis of a legal provision which had never been invoked before. He considered that if there were any unclear legal points in respect of that ruling, the Administration should sort them out through appropriate legal channels. Mr Albert HO further pointed out that once the OC of Albert House was wound up, it would no longer be able to obtain legal aid. He suggested that HAD should liaise with the Official Receiver's Office with a view to providing necessary legal assistance to the owners concerned. DHA responded that HAD had been in contact with the Official Receiver's Office, which was the provisional liquidator in this case, and was taking necessary follow-up actions.

15. Mr Albert CHENG considered that if an appeal was to be made to CFA, the owners should not be asked to shoulder any more legal cost. He pointed out that the owners had already paid compensation once, but a lot of which was for payment of legal costs including those for legal aid service. SHA said that the Administration would seek legal advice before deciding the course of actions to be taken.

16. Mr Albert HO, Mr Albert CHENG and Mr LEE Wing-tat expressed support for the proposal of setting up a charity fund to help owners of Albert House in payment of the compensation. Mr Albert CHENG urged SHA to take the lead to donate to the fund. He offered that if SHA made any donations, he would donate the same amount to the fund. Mr LEE urged that the Administration should let owners of Albert House know as soon as possible the measures it would take to assist them and when it would consider setting up the charity fund. SHA undertook that the Administration would give top priority

Action
Admin

to consideration of possible assistance to be rendered to owners of Albert House and would give a response very quickly.

Admin

17. Mr WONG Yung-kan asked whether the Administration would consider arranging owners of Albert House to move to public housing units if they were forced to leave their premises and no other accommodation was available. SHA responded that the Administration would certainly do its best in providing the necessary assistance to the owners. At members' request, SHA agreed to provide a progress report on the follow-up actions taken by the Administration on the Albert House case as soon as possible.

Third party risks insurance in relation to the common parts of a building

18. SHA said that the Albert House case had highlighted the importance of proper building management and maintenance as well as the need for OCs and property owners to procure third party risks insurance to cover liabilities in respect of the common parts of a building. SHA pointed out that the Building Management (Amendment) Ordinance 2000 had introduced an amendment to section 28 of the Building Management Ordinance (BMO) which required that an OC shall procure and keep in force in relation to the common parts of the building a policy of insurance in respect of third party risks. It would be an offence if the OC failed to comply with the mandatory insurance requirement without reasonable excuse. SHA said that since passage of the Building Management (Amendment) Ordinance 2000, HAD had been in active discussion with the insurance sector, through HKFI, to work out the implementation details. However, there were many issues, such as the setting of the minimum amount for the insurance policies and coverage for unauthorised building works (UBWs), which required careful consideration. SHA added that the Administration planned to stipulate the minimum insured amount of each policy to be not less than \$10 million for a period of 12 months in respect of the third party bodily injury and death.

19. SHA informed members that most of the properly managed buildings had already procured third party risks insurance. The Administration's main concern was with buildings which lacked proper building management and maintenance. In fact, insurance companies would find it difficult to provide insurance coverage for these buildings. SHA said that HAD would urge OCs and owners of such buildings to step up restoration or improvement works and remove UBWs in order to procure third party risks insurance for the common parts of their buildings.

20. SHA said that the Administration was also concerned about buildings which did not have OCs, as it would be difficult for such buildings to take out third party risks insurance. He further said that HAD would continue to liaise with the insurance sector about the problem and would continue to encourage owners to form OCs. He added that HAD would also work in collaboration

Action

with the Housing, Planning and Lands Bureau (HPLB) and the Buildings Department (BD) to strive for early removal of UBWs in these buildings.

Admin

21. Referring to the amended section 28 of the Building Management (Amendment) Ordinance 2000, Mr Albert HO suggested that the Department of Justice (D of J) should print out in the laws of Hong Kong those provisions which had been enacted but had not come into effect, and explicitly state in the laws that the provisions had not yet come into effect. He said that this could remind LegCo Members of any such provisions. SHA undertook to convey his suggestion to D of J.

22. Mr Daniel LAM asked what measures the Administration would take to prevent recurrence of cases similar to the Albert House case from now on until the provisions on mandatory insurance requirement had come into operation. DHA responded that HAD would continue to take active measures to encourage property owners and OCs to take out third party insurance for their buildings to protect themselves from the possibility of any liability claim. She said that this message had been widely publicised during workshops/seminars held with property owners and through the 18 District Offices.

23. Miss TAM Heung-man asked whether there were any remedies for buildings which had not taken out any third party risks insurance due to the existence of UBWs. DHA said that following the Albert House case, property owners should realise the urgent needs to remove any UBWs and to take out third party risks insurance for their buildings.

24. Miss TAM Heung-man pointed out that the insurance premium for old buildings had surged in recent years and many property owners could not afford to pay the premium. Mr K P CHAN advised that the insurance premium had only surged after the “911” incident but it had adjusted downwards now. For example, for a 30-storey building with eight flat units on each floor, an owner of each flat unit would only have to pay less than a hundred dollars per year to procure an insurance policy with an insured amount of \$10 million for the building.

Setting up of a statutory body to undertake insurance for buildings with UBWs and/or without OCs

25. Mr Albert HO suggested that since insurance companies were unwilling to provide coverage for buildings with UBWs, the Administration should consider setting up a statutory body to undertake insurance for such buildings and also for those without OCs. He said that the Hong Kong Export Credit Insurance Corporation was an example of such statutory bodies.

26. The Chairman invited Mr K P CHAN to brief members on the insurance sector’s views on procuring insurance coverage for buildings with UBWs . Mr

Action

K P CHAN said that the insurance sector considered that for buildings with UBWs, the building owners should first arrange demolition of UBWs. He explained that insurance companies were unwilling to provide coverage for these buildings because the sector considered that the existence of UBWs in these buildings always posed a hazard to a third party. The hazard would be eliminated only by removal of the UBWs and not by procuring insurance for the buildings. He said that if property owners took the initiative to remove the UBWs and carry out proper maintenance, they should have no problem in procuring third party risks insurance for their buildings.

27. The Chairman asked Mr K P CHAN whether it would be difficult for owners to comply with the mandatory insurance requirement if their buildings had UBWs, and to claim any compensation from insurance to cover liabilities arising from these UBWs. Mr CHAN responded that an insurance policy usually contained such terms that compensation would be payable only if the building concerned had not breached any Government regulations. He pointed out that since UBWs were unlawful, there might be difficulties for the OC concerned to claim compensation from the insurance for the liabilities arising from these UBWs. Mr CHAN suggested that property owners should check whether there were UBWs in their buildings' common parts, and if these were found, they should clarify with the insurance company whether the UBWs would pose a problem in claiming compensation.

28. As to Mr Albert HO's suggestion of setting up a statutory body to undertake insurance for buildings with UBWs or without OCs, Mr K P CHAN considered that it would be more advisable for the insurance sector, instead of a central body, to run an insurance scheme for these buildings. Mr Albert HO considered that if the insurance sector was not prepared to undertake insurance for these buildings, the sector should not hinder the Administration in its consideration of setting up the proposed statutory body as there was an urgent social need to address the problem. Responding to the Chairman, SHA said that HAB had not explored the idea of setting up such a statutory body during its earlier review of the BMO, but the Administration would consider the suggestion. Mr Albert CHENG expressed strong dissatisfaction with Mr CHAN's view. He pointed out that the fund proposed by Mr WONG Kwok-hing had nothing to do with insurance for buildings and there was no need for Mr CHAN to worry that the business interest of the insurance sector would be adversely affected. Mr K P CHAN clarified that there were actually two issues under discussion. One was the fund to help owners of Albert House as proposed by Mr WONG Kwok-hing and the other was a statutory insurance fund to undertake insurance for buildings as proposed by Mr Albert HO. Mr K P CHAN said that he was only responding to Mr. Albert HO's proposal. Mr Albert CHENG told Mr CHAN to stop making any clarification and reminded him of his role as a guest of LegCo and the need to follow its Rules of Procedure. Mr K P CHAN clarified that it was only his view that the Administration should let the insurance sector to operate an insurance scheme

Action

for these buildings first, instead of setting up a central body to do so at the present stage. Mr Albert CHENG pointed out that as Mr CHAN had already said, the insurance sector was unwilling to undertake insurance for buildings with UBWs. Mr CHENG, however, offered his apologies to Mr CHAN for his mannerism earlier which might not be apt as a LegCo Member.

Setting up of a building accident compensation assistance fund

29. Mr Andrew CHENG said that the OC of Albert House had already paid out its share of compensation, i.e. 15% of the total compensation amount, in accordance with the court's decision in 1999. However, the OC's liability had increased as a result of the insolvency of the other four liable parties. Mr CHENG suggested that the Administration should review the BMO to provide for a ceiling to the legal liabilities to be borne by an OC. Mr Andrew CHENG further suggested that the Administration should also consider setting up a building accident compensation assistance fund by collecting levy on the basis of a certain percentage of the premium paid by OCs in procuring third party risks insurance for their buildings. Mr CHENG said that the fund, if established, could be used to make up the shortfall if the amount of compensation that an OC could claim from insurance was inadequate to cover the liability claim arising from an accident occurred in the building.

30. SHA said that the assistance fund proposed by Mr Andrew CHENG would be a statutory fund similar to the Traffic Accident Victims Assistance Fund. He further said that the Administration was willing to consider the suggestion if the community considered that there was a need to do so. However, legislation would need to be introduced in order to put in place the proposed assistance fund.

31. Mr Andrew CHENG sought Mr K P CHAN's views as to the appropriate rate of levy for the proposed assistance fund. Mr K P CHAN agreed that consideration could be given to establishing a levy council, and the operation of the proposed assistance fund could be similar to that of the Pneumoconiosis Compensation Fund and the Occupational Deafness Compensation Fund. He pointed out that in the light of the Sun Hing Building case which had occurred some 10 years ago and the Albert House case, OCs might have to accept that the minimum insured amount of each policy had to be not less than \$30 million in respect of the third party bodily injury and death. Mr CHAN also pointed out that it would be in the interests of the society for the Administration to consider whether a ceiling should be imposed on the amount of accident compensation claimed under civil laws.

32. Mr James TO commented that if the Administration was willing to set up a statutory body to undertake insurance for buildings with UBWs or without OCs, there would be a lesser need for setting up such an assistance fund. He pointed out that as public money would be used to set up the assistance fund,

Action

the Administration had to consider carefully its scope of protection if the fund was to be set up.

33. Mr James TO further said that the current policy that no ceiling was imposed on the amount of civil claims certainly had an impact on the insurance premium, and that the overall social costs involved were quite considerable. He pointed out that once a ceiling was imposed, the overall social costs could be reduced. For long-term policy consideration, Mr TO requested the Administration to consider the following issues which were interrelated –

- (a) whether or not a ceiling should be imposed on the third party liabilities borne by OCs for the common parts of their buildings;
- (b) whether or not a ceiling should be imposed on civil claims; and
- (c) whether or not the building accident compensation assistance fund proposed by Mr Andrew CHENG should be established.

He pointed out that as common law principles were involved in consideration of the issues referred to in (a) and (b) above, HAB should work with D of J to review the policy in this respect.

34. Mr James TO requested that the Administration should provide a report on the progress of the above issues in about three to six months' time. In response to the Chairman, SHA undertook to keep the Panel posted of any progress on a regular basis. He said that the Administration would consult the various bureaux/departments concerned and stakeholders and try to come up with a policy direction.

Admin

Impact of the Albert House case on formation of OCs

35. Mr Albert HO expressed concern whether the Albert House case would deter property owners from forming OCs, especially after the provisions on mandatory insurance requirement had come into effect. DHA pointed out that the third party liability borne by an owner for his/her building would not be reduced because his/her building had not formed an OC. She said that on the contrary, a building's management work would be facilitated by the establishment of an OC and hence HAD had all along taken active measures to encourage owners to form OCs. She added that the Administration would also propose in the Amendment Bill new provisions to clearly spell out the status and powers of OCs so that OCs could have clearer guidelines and better protection.

36. Mr WONG Yung-kan suggested that HAD should enhance its support measures for the work of OCs. DHA responded that HAD had put in place various support measures. Apart from setting up telephone hotlines for public

Action

enquiries about building management, HAD had set up four Building Management Resources Centres (BMRCs) with extended operating hours to provide advice and support services to the public on building management.

Demolition work of UBWs

37. Mr Albert HO pointed out that the Albert House case had highlighted the importance of proper supervision in the demolition work of UBWs and urged the Administration to step up monitoring in this respect. DHA pointed out that the Administration had put in place measures to achieve better control of demolition works in order to enhance public safety. She said that, for example, building owners were required by laws to hire qualified contractors to undertake demolition works and to comply with the necessary safety measures for such works.

38. Mr Albert CHENG said that since owners of buildings with UBWs would have difficulties in procuring third party risks insurance, the OCs concerned should leave the demolition work of UBWs to BD. Mr CHENG said that in this way, the OCs would be protected from any liability claims arising from injuries or damages occurred in the course of the demolition. Mr James TO, however, had a different view. He said that demolition work of UBWs should not be delayed, and the Government and LegCo should jointly call on all property owners to strive for early demolition of any UBWs in their buildings.

39. Mr WONG Yung-kan and Mr WONG Ting-kwong urged the Administration to expedite demolition of UBWs. They also asked what assistance the insurance sector could offer to expedite the work. SHA said that he had discussed the issue with the Secretary for Housing, Planning and Lands. He pointed out that the Administration had taken active measures to encourage property owners to remove UBWs. For example, the Building Safety Loan Scheme had been put in place to provide loans to private building owners for carrying out works to improve the safety of their buildings.

40. Mr K P CHAN said that HKFI had discussed with BD and agreed to an arrangement that when UBWs within the same district were to be demolished, the owners who needed to get insurance coverage for the demolition work would be organised to procure third party risks insurance collectively and HKFI would try to find an insurance company to provide an overall insurance coverage for these owners. Mr CHAN pointed out that such an arrangement would allow the owners lower premium than that to be paid by individual owners if they procured third party risks insurance for the buildings separately. Mr CHAN added that the insurance sector had been discussing with the Administration to see what support the sector could provide to facilitate the implementation of the mandatory insurance requirement in the future.

Action

41. Mr James TO said that BD had done a lot of work in the demolition of UBWs and had offered a lot of assistance in this respect to property owners in recent years. He considered that HAD should step up its efforts in providing assistance to property owners in the formation of OCs and in building management and maintenance. He suggested that consideration should be given to forming an interdisciplinary working group for tackling issues, such as exploring what incentives could be offered to property owners to attract them to apply for the Building Safety Loan Scheme. Mr TO further suggested that the Liaison Officers should be more proactive and they should directly approach the owners of target buildings and persuade them to form OCs.

42. DHA responded that the Liaison Officers took building management work very seriously and had completed relevant courses and training on building management. She pointed out that individual owners could consider taking out third party risks insurance in respect of the common parts of their buildings in order to protect their own interests. Mr Albert HO, however, pointed out that if one single owner took out third party risks insurance in respect of the common parts of the building but no other owners did so, the owner would be held responsible for a liability claim, when it arose, and might be requested to pay the shares to be borne by all other owners of the building. DHA said that the best option for the owners was to set up an OC so that it could take out third party risks insurance for the building.

43. Mr Patrick LAU asked whether the contractor engaged to remove the UBWs in the Albert House case had taken out third party risks insurance. DHA responded that she had no concrete information, but she believed that the contractor had not done so. Mr K P CHAN said that either the contractor had not taken out third party risks insurance or the amount of insurance coverage was inadequate to cover the claim.

44. Mr Patrick LAU further asked whether contractors engaged to undertake demolition of UBWs were required to take out third party risks insurance or else they should not be allowed to do the work. Mr K P CHAN said it was not mandatory for contractors to procure insurance. He added that if these contractors had any difficulty in securing the insurance, they could approach HKFI to seek assistance.

Building Management (Amendment) Bill

45. SHA informed members that the Administration's current plan was to introduce the Building Management (Amendment) Bill (the Amendment Bill), with the subsidiary legislation on the mandatory insurance requirement, into LegCo in April 2005. He said that the provisions on third party risks insurance would come into effect once the related subsidiary legislation was passed. He added that the Amendment Bill would also include a series of proposals which aimed at assisting OCs to perform their duties of building management and

Action

offering better protection to property owners.

46. Referring to the sudden closure of a property management company in August 2003, Miss TAM Heung-man expressed concern about the lack of penalty clauses in the BMO to address the problem of improper operation of property management companies.

47. Assistant Director for Home Affairs (AD(HA)) said that the Amendment Bill would include proposals to strengthen control of property management companies by specifying that the manager would have to establish and maintain one or more segregated accounts for money received in respect of the management of the building with the OCs as the client, each of which would be designated as a trust account or client account. AD(HA) said that subject to consultation with the property management industry, the Administration would also include a penalty provision in the BMO for non-compliance with the proposed requirements.

48. Miss TAM Heung-man further asked what measures would be taken to remedy old deeds of mutual covenant (DMCs) which contained provisions which were unfair to owners. AD(HA) pointed out that DMCs were private contracts made between the developer, the manager and the first owner of the building. As the Government was not a party to the contract, it was not appropriate to introduce amendments to DMCs through legislative means. However, there were provisions in the Seventh Schedule to the BMO which had overriding effect over DMCs. AD(HA) explained that to facilitate the formation of an OC, the Administration proposed to specify under the BMO that the first management committee (MC) might be appointed by a resolution of the owners of not less than 30% of the shares, and to delete any references to DMC from section 3 of the BMO. AD(HA) said that the effect of the amendments was that the composition and procedure of the MC formed under section 3 of the BMO should follow the BMO instead of DMC.

49. The Chairman asked whether it was possible for the Administration to introduce the Amendment Bill, or at least the part relating to procurement of third party risks insurance by OCs on a mandatory basis, earlier. SHA responded that the Administration needed to carefully consider the issues arising from the Albert House case. The Administration, however, would strive to introduce the Bill as soon as possible.

50. At the suggestion of Mr Albert HO, the Panel requested the Administration to provide a report on the following issues before it introduced the draft Regulation on third party risks insurance into LegCo –

Admin

- (a) whether or not it was in order from a legal point of view to require the OC of Albert House to bear the liabilities for the payment of compensation which should be made by the other

Action

four defendants which were bankrupt, given that the OC had already paid its share of compensation, i.e. 15% of the total compensation, as ruled by the court in 1999;

- (b) what measures the Administration would take to deal with buildings which could not secure third party risks insurance because they had UBWs or did not have OCs; and
- (c) whether consideration would be given to setting up a statutory body to undertake insurance for buildings with UBWs or without OCs.

51. There being no other business, the meeting ended at 12:50 pm.

Council Business Division 2
Legislative Council Secretariat
20 January 2005