

立法會
Legislative Council

LC Paper No. CB(2)298/07-08
(These minutes have been seen by
the Administration)

Ref : CB2/SS/11/06

**Subcommittee on Building Management
(Third Party Risks Insurance) Regulation**

**Minutes of meeting
held on Tuesday, 16 October 2007, at 12:45 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
Hon Albert HO Chun-yan
Hon Jasper TSANG Yok-sing, GBS, JP
Hon CHOY So-yuk, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon TAM Heung-man

Members absent : Hon Bernard CHAN, GBS, JP
Hon Miriam LAU Kin-ye, GBS, JP

Public Officers attending : Home Affairs Department

Mr Isaac CHOW
Deputy Director of Home Affairs (2)

Miss Linda SO
Assistant Director of Home Affairs (4)

Department of Justice

Mr Lawrence PENG
Senior Assistant Law Draftsman

Ms Lonnie NG
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 Alice LEUNG
Senior Council Secretary (2)1

Ms Anna CHEUNG
Legislative Assistant (2)2

Action

I. Meeting with the Administration

[File Ref : HAD/HQ/CR/20/3/1(C)]

[LC Paper Nos. LS121/06-07, CB(2)26/07-08(03)-(04) and CB(2)83/07-08(01)]

The Subcommittee deliberated (index of proceedings attached at **Annex**).

Admin

2. The Administration was requested to provide information and written response to the following concerns and issues raised by members -

- (a) to provide information (with illustration by photos if appropriate) on the range of third party risks insurance premium per annum of various types of buildings of different ages and numbers of units (particularly buildings aged over 30 years or above and with a small number of units), if the statutory minimum amount of insurance coverage is set at \$5 million or \$10 million respectively;
- (b) to address the concern whether there is effective market competition to ensure that the premium would be maintained at a reasonable level if the new requirement on mandatory third party risks insurance is imposed;
- (c) to explain why owners corporations (OCs) and owners would have the incentive to remove unauthorized buildings works (UBWs) in their buildings, if the new requirement on mandatory third party risks insurance comes into effect;
- (d) to illustrate with examples how to determine whether there is a breach of the requirement to exercise reasonable diligence under section 6, particularly whether the assured corporation would be considered as

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having breached the requirement on the ground that it has allowed the existence of UBWs in its building;

- (e) to address the concern that members of a management committee (MC) would be held liable for the consequence of failing to take any follow-up action upon receipt of the removal order of an UBW and, as a result, the third party risks insurance policy becomes void because of section 6(3);
- (f) to explain how to deal with the situation that an OC is unable to comply with the new requirement on mandatory third party risks insurance because the common parts of the building has an UBW which was built by the developer and it is not feasible to demolish the UBW even though the OC wants to do so, or because the quotes for premium are unreasonably high; and
- (g) to explain whether an MC may claim to be having exercised due diligence to comply with the new requirement on mandatory third party risks insurance under section 28 (2) (b) (not yet in operation) of the principal Ordinance once the MC has put forward its procurement proposal even though the OC voted it down.

Admin

3. The Administration undertook to provide information on the measures taken to address the problem of UBWs and the numbers of UBWs which were removed by the Buildings Department over the past few years, if available, for members' reference.

II. Any other business

Date of future meetings

4. Members noted that the next meeting of the Subcommittee would be held on Tuesday, 23 October 2007 at 2:30 pm to meet with the Administration, the Hong Kong Federation of Insurers and the Hong Kong Association of Property Management Companies Limited

Clerk

5. Members agreed to schedule for another meeting for Monday, 29 October 2007 at 2:30 pm to continue discussion with the Administration.
6. There being no other business, the meeting ended at 2:25 pm.

**Proceedings of the meeting of
Subcommittee on Building Management
(Third Party Risks Insurance) Regulation
on Tuesday, 16 October 2007, at 12:45 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 001244	Chairman Admin	Opening remarks Briefing by the Administration on the Regulation [Legislative Council Brief (File Ref: HAD/HQ/CR/20/3/1(C)), LC Paper Nos. CB(2)26/07-08(03)-(04) and CB(2)83/07-08(01)]	
001245 - 002347	Mr WONG Kwok-hing Admin Chairman	Discussion on the concern over the affordability of owners of old buildings with a small number of units if the new requirement on mandatory third party insurance came into effect, and the suggestion of a tiered structure of the minimum insured amount on the basis of the numbers of units.	Admin to provide information (para. 2(a) of minutes)
002348 - 003503	Miss TAM Heung-man Admin Chairman	Discussion on the concern that owners corporations (OCs) were not required to procure a third party risks insurance policy for the unauthorized building works (UBWs) attached to or hung onto the buildings, and the Administration's work to tackle the problem of UBWs.	Admin to provide information (para. 3 of minutes)
003504 - 005646	Mr Albert HO Admin Chairman Miss TAM Heung-man	The Administration to explain why OCs and owners would have the incentive to remove UBWs in their buildings, if the new requirement on mandatory third party insurance came into effect.	Admin to provide response (para. 2 (c) of minutes)
005647 - 010639	Ms Audrey EU Admin	Discussion on the concern whether there was effective market competition in ensuring the third party risks insurance premium at a reasonable level, and how to deal with the cases in which OCs was unable to comply with the new requirement on mandatory third party risks insurance because the common parts of the buildings had UBWs which were built by the developers and it was not feasible to demolish UBWs even though OCs wanted to do so.	Admin to provide response (para. 2 (b) and 2(f)of minutes)

Time marker	Speaker	Subject	Action required
010640 - 011315	Chairman ALA 4 Admin	Discussion on the circumstances in which there would be a breach of the requirement to exercise reasonable diligence under section 6, and a situation that a member of a management committee (MC) might claim to be having exercised due diligence to comply with the new requirement on mandatory third party risks insurance under 28(2)(b) (not yet in operation) of the principal legislation.	Admin to provide response (para. 2 (d) and (g) of minutes)
011316 - 012805	Miss TAM Heung-man Admin Chairman	Discussion on a scenario that members of an MC would be held liable if the third party risks insurance policy became void on the ground of section 6(3) because they had failed to take any follow-up action upon receipt of the removal order of an UBW.	Admin to provide response (para. 2 (e) of minutes)
012806 - 013619	Ms Audrey EU Admin Chairman	<p>The Administration's explanation for not requiring the third party risks insurance policies to cover liabilities in respect of the death of, or the bodily injury to the employees employed by OCs and contractual liabilities (i.e. section 3(2)(b) and 3(2)(e) respectively).</p> <p><u>Section 3(2)(b)</u></p> <ul style="list-style-type: none"> - All employers were already required to take out employees' compensation insurance policies to cover their liabilities under the Employees' Compensation Ordinance. <p><u>Section 3(2)(e)</u></p> <ul style="list-style-type: none"> - Reference was made to the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap. 272). Distinct from liability for tort, an OC should have considered the liability that it would assume under a contract before signing the contract. 	
013620 - 013843	Chairman	Scheduling another meeting of the Subcommittee	Clerk to follow up (para. 5 of minutes)