

立法會
Legislative Council

LC Paper No. CB(2)2577/07-08
(These minutes have been
seen by the Administration)

Ref : CB2/SS/7/07

Subcommittee on Building (Planning) (Amendment) Regulation 2008

**Minutes of the second meeting
held on Friday, 6 June 2008, at 8:30 am
in Conference Room B of the Legislative Council Building**

Members present : Hon Emily LAU Wai-hing, JP (Chairman)
Hon Abraham SHEK Lai-him, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP

Member absent : Hon CHEUNG Hok-ming, SBS, JP

Public Officers attending : Item I
Labour and Welfare Bureau
Mr Stephen SUI Wai-keung
Commissioner for Rehabilitation
Ms Elia WONG Ngai-lui
Assistant Secretary for Labour and Welfare
(Rehabilitation)
Buildings Department
Mr MO Kim-ming
Assistant Director / New Buildings 1

Mr Alex CHOW Kim-ping
Chief Building Surveyor / Kowloon

Mr HUI Siu-wai
Chief Building Surveyor / Legal

Department of Justice

Ms Frances HUI Hang-ka
Senior Government Counsel

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 4

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mr Chris LAI
Senior Council Secretary (2) 7

Action

I. Meeting with the Administration

[L.N. 124 of 2008, Legislative Council Brief, LC Paper Nos. LS86/07-08 and CB(2)2084/07-08(01)]

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

2. Members expressed concern about the application of the Building (Planning) (Amendment) Regulation 2008 (the Amendment Regulation) to buildings where only limited facilities could be provided for persons with a disability (PWDs) due to physical constraints. The Administration advised that there were special circumstances where proposals for building works were unable to meet the full requirements. Variation of the requirements would be considered by the Building Authority after taking into account the merits of individual cases. The Administration was requested to provide information on the mechanism and criteria for granting exemption for compliance with the obligatory design requirements stipulated in the Building (Planning) Regulations, together with the number of such applications and approved cases by types of buildings in the past few years.

Admin

Action

3. Mr Tommy CHEUNG advised that the food business industry had expressed grave concern about the requirement for provision of ramps in food premises. Given that the installation of removable wheelchair spaces was allowed in cinemas, Mr CHEUNG considered that ramps should be provided in a specified percentage of dining area and that removable ramps might be used for changes in level of not more than 300 mm below or above the floor for the purpose of providing access to PWDs in food premises.

4. The Chairman requested members to provide the Subcommittee with the proposed amendments to the Amendment Regulation, if any, for consideration by the Subcommittee as early as practicable.

5. Members expressed dissatisfaction that the Administration had taken almost 10 years to review and revise the design requirements, and had introduced the Amendment Regulation into the Legislative Council as late as in May 2008. They also expressed dissatisfaction at the "bunching" of legislation at the end of the current term.

II. Date of next meeting

6. The Chairman reminded members that the next meeting would be held on 10 June 2008 at 8:30 am to meet with deputations and the Administration.

7. There being no other business, the meeting ended at 10:24 am.

Council Business Division 2
Legislative Council Secretariat
9 July 2008

**Proceedings of the second meeting of the
Subcommittee on Building (Planning) (Amendment) Regulation 2008
on Friday, 6 June 2008, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with the Administration</i>			
000000 - 001734	Chairman	Opening remarks	
001735 - 003714	Chairman Admin	Briefing by the Administration on the background for introducing the Building (Planning) (Amendment) Regulation 2008 (the Amendment Regulation) and the new design requirements stipulated in the Amendment Regulation	
003715 - 005651	Chairman Mr Tommy CHEUNG Admin	<p>The food business industry's concern/suggestions that –</p> <p>(a) there were physical constraints in individual food premises when implementing the Design Manual;</p> <p>(b) the provision of removable ramp should be accepted for a change in level of not more than 300mm below or above the floor on food premises; and</p> <p>(c) the requirements for the provision of barrier free access for persons with a disability (PWDs) should be applicable to a certain percentage of the dining area</p> <p>The Administration's response that applications for exemptions would be considered on a case by case basis taking into account various factors, such as whether providing access to PWDs would impose unjustifiable hardship on the person seeking approval or any other person</p>	
005652 - 010601	Mr Ronny TONG Admin Chairman	<p>Mr Ronny TONG's concern –</p> <p>(a) that the design requirements on substantial alteration works carried out in some premises (such as club houses) might impose unreasonable hardship on the property owners and substantially increase the construction costs; and</p> <p>(b) about the mechanism and criteria for granting exemption for compliance with the obligatory design requirements</p> <p>Admin to provide further information on the exemption mechanism and criteria, together with the number of such applications and approved cases in the past few years</p>	Admin
010602 - 011207	Dr Fernando CHEUNG Chairman Admin	<p>The views of Dr Fernando CHEUNG that –</p> <p>(a) the new Design Manual should be implemented expeditiously; and</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		(b) the new design requirements had taken into account the views and interests of different stakeholders	
011208 - 012029	Professor Patrick LAU Chairman Admin	<p>Professor Patrick LAU's enquiry about –</p> <p>(a) compliance with the design requirements stipulated in the Mandatory and Best Practice Sections of the new Design Manual; and</p> <p>(b) criteria for granting exemption for compliance with the obligatory design requirements for renovation works in schools and old buildings</p> <p>The Administration's response that it would take into account various factors when considering applications for exemption, including whether the proposed alteration and addition works were minor in nature and whether the provision of barrier free access for PWDs would impose unjustifiable hardship</p>	
012030 - 012515	Mr Tommy CHEUNG Chairman Admin	<p>Mr Tommy CHEUNG's enquiry/concern –</p> <p>(a) whether compliance with the obligatory design requirements would be required for renovation works to external walls of buildings; and</p> <p>(b) whether applicants for new food licences or transfer of food business licences were obliged to comply with the design requirements stipulated in the Building (Planning) Regulations in meeting the new food business licensing procedures</p>	
012516 - 013318	Dr Fernando CHEUNG Admin Chairman Clerk	<p>The views of Dr Fernando CHEUNG –</p> <p>(a) the Administration should give an undertaking that all new Government buildings should meet the standards stipulated in the Best Practice Section of the new Design Manual; and</p> <p>(b) the application of the Amendment Regulation should be extended to Government buildings</p> <p>The Administration's response that –</p> <p>(a) all new Government buildings would follow the obligatory design requirements in the new Design Manual. It would make the best efforts to ensure that new Government buildings would also follow the recommended design requirements subject to technical feasibility;</p> <p>(b) section 84 of the Disability Discrimination Ordinance (Cap. 487) provided that a public authority shall not approve building plans unless the authority concerned was satisfied that reasonable access to the building or premises would be provided for PWDs; and</p> <p>(c) extending the application of the Amendment</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>Regulation to Government buildings would require amendments to the Principal Ordinance which would be outside the scope of the Amendment Regulation</p> <p>Procedures for members to address the Council on the subsidiary legislation</p>	
013319 - 013629	<p>Mr Ronny TONG Admin Chairman Mr Tommy CHEUNG</p>	<p>Members' concern about changes to food business licensing procedures in the light of the recommendations of Team Clean since 18 April 2006</p> <p>Representatives of the Food and Environmental Hygiene Department should be invited to the next meeting to answer members' questions</p>	Admin
013630 - 013734	<p>Chairman Mr Tommy CHEUNG Mr Ronny TONG</p>	<p>Speaking time for deputations to make oral representations at the next meeting</p>	
013735 - 014344	<p>Professor Patrick LAU Admin Mr Tommy CHEUNG Chairman Dr Fernando CHEUNG</p>	<p>Professor Patrick LAU's view that consideration should be given to waiving the requirement for the provision of barrier free access to PWDs in part of food premises, such as mezzanine floors of restaurants in old buildings</p>	
014345 - 014800	<p>Mr Abraham SHEK Admin Mr Tommy CHEUNG Chairman</p>	<p>Mr Abraham SHEK's concern about the mechanism and criteria for granting exemption for compliance with the obligatory design requirements, such as the definition of substantial alteration and addition works</p>	
014801 - 015250	<p>Chairman Mr Abraham SHEK Mr Tommy CHEUNG Clerk</p>	<p>Members to provide the proposed amendments, if any, for the Subcommittee's consideration as early as possible</p> <p>Members' concern about the bunching of bills and subsidiary legislation at the end of the current term</p>	
<i>Any Other Business</i>			
015251 - 015326	<p>Chairman Mr Tommy CHEUNG Mr Abraham SHEK</p>	<p>Date of next meeting</p>	