

立法會
Legislative Council

LC Paper No. CB(1)1391/09-10
(These minutes have been seen
by the Administration)

Ref: CB1/BC/4/09/2

Bills Committee on Buildings (Amendment) Bill 2010

First meeting on
Thursday, 19 February 2010, at 10:45 am
in Conference Room A of the Legislative Council Building

Members present : Hon IP Kwok-him, GBS, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP (Deputy Chairman)
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon CHEUNG Hok-ming, GBS, JP
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king
Dr Hon Priscilla LEUNG Mei-fun

Members absent : Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEE Wing-tat
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH

Public officers : Mr Thomas CHOW Tat-ming, JP
Attending Permanent Secretary for Development
(Planning and Lands)

Mr Tommy YUEN Man-chung, JP
Deputy Secretary for Development
(Planning and Lands) 2

Mr Edward TO Wing-hang
Principal Assistant Secretary for Development
(Planning and Lands) 3

Mr Harry LIN Ting-yan
Assistant Secretary for Development (Buildings) 2

Mr LAM Siu-tong
Deputy Director of Buildings

Mr CHIANG Chi-man
Acting Chief Building Surveyor (Legal)
Buildings Department

Ms Rayne CHAI Chih-hui
Senior Government Counsel
Department of Justice

Clerk in attendance: Mr WONG Siu-yee
Chief Council Secretary (1)4

Staff in attendance : Mrs Constance LI
Assistant Secretary General 1

Miss Winnie LO
Assistant Legal Adviser 7

Mr Daniel SIN
Senior Council Secretary (1)5

Ms Christina SHIU
Legislative Assistant (1)7

I Election of Chairman

Election of Chairman and Deputy Chairman

Mr IP Kwok-him and Ir Dr Raymond HO were elected Chairman and Deputy Chairman of the Bills Committee respectively.

II Meeting with the Administration

- (LC Paper No. CB(3)389/09-10 -- The Bill
- LC Paper No. CB(1)1168/09-10(01) -- Marked-up copy of the Bill prepared by the Legal Service Division
- File Ref: DEVB(PL-CR) 2-15/08 -- Legislative Council Brief
- LC Paper No. LS42/09-10 -- Legal Service Division Report
- LC Paper No. CB(1)1168/09-10(02) -- Paper on Buildings (Amendment) Bill 2010 prepared by the Legislative Council Secretariat (Background brief)

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration

3. The Administration was requested to provide written response on the following points raised by individual members of the Bills Committee --
- (a) Under the proposed sections 30B(3) and 30C(3) of the Buildings (Amendment) Bill 2010 (the Bill), the Building Authority may require "any owner" of a building to undertake a prescribed inspection and, if necessary, prescribed repair. The Administration should explain the interpretation of "any owner" and the impact of such an interpretation on the legal liabilities of an owner.
 - (b) The Administration should consider the feasibility of specifying in the principal Ordinance, instead of the relevant subsidiary legislation, certain aspects such as the standard and requirements of prescribed inspection and prescribed repair.
 - (c) The Administration should explain why pre-war private buildings not exceeding three storeys in height in urban areas would not be covered under the Bill and provide, if available, the number of such buildings.
 - (d) The Administration should explain how internal alteration works and unauthorized building works would be handled under the Bill and whether its existing policy of prioritizing enforcement actions should be reviewed to facilitate inspection and repair works under the Mandatory Building Inspection Scheme.

- (e) The Administration should provide the existing staff numbers of the Buildings Department, with breakdown by duty/function, and the projected numbers of staff for implementation of the two mandatory inspection schemes.
- (f) The Administration should provide further information on the Voluntary Building Classification Scheme, including the operational details, implementation timeframe and how such a scheme would dovetail with the Mandatory Building Inspection Scheme.
- (g) The Administration should consider implementing measures to help organize owners to carry out inspection and repair works under the two mandatory inspection schemes.

III Any other business

Invitation for views

4. The Bills Committee agreed to invite the 18 District Councils and relevant professional organizations to give views on the Bill and to post a notice on the website of the Legislative Council to invite public views.

Date of next meetings

5. The Bills Committee agreed that the next meeting should be held on Saturday, 20 March 2010 to receive views from deputations and to meet with the Administration.

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

Council Business Division 1
Legislative Council Secretariat
17 March 2010

**Proceedings of the
Bills Committee on Buildings (Amendment) Bill 2010
First meeting on Thursday, 19 February 2009, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 – 000210	Ir Dr Raymond HO Mr Abraham SHEK Mr CHAN Kam-lam Mr IP Kwok-him	Election of Chairman Mr IP Kwok-him was elected Chairman.	
000211 – 000330	Chairman Clerk	Soliciting members' views on the need for a Deputy Chairman	
000331 – 000351	Chairman Ms Starry LEE Ir Dr Raymond HO	Election of Deputy Chairman Ir Dr Raymond HO was elected Deputy Chairman.	
000352 – 002302	Chairman Administration	Briefing by the Administration on the Buildings (Amendment) Bill 2010 (the Bill) (soft copy of PowerPoint presentation materials (LC Paper No. CB(1)1234/09-10(01) issued to members by email on 23 February 2010)	
002303 – 002526	Chairman	The Chairman said that the Bills Committee should invite public views on the Bill and discuss key issues before examining the individual clauses of the Bill.	
002527 – 003428	Chairman Mr WONG Kowk-hing Administration	(a) Mr WONG was concerned that some old buildings without owners' corporation lacked regular maintenance and had no proper management; as many of their owners were elderly people who could not afford the inspection and repair costs, and also the surcharge if the Buildings Department (BD) carried out the works on their behalf. (b) The Administration responded that owners of those buildings would	

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		<p>be offered technical and financial assistance under various schemes. Owners might also form mutual aid committees or owners committees to co-ordinate building maintenance. The surcharge was imposed to avoid abuse of BD's service by building owners. If there were valid justifications, the surcharge might be waived.</p> <p>(c) Mr WONG suggested that the Administration should consider implementing measures to help organize owners to carry out inspection and repair works under the Mandatory Building Inspection Scheme (MBIS) and the Mandatory Window Inspection Scheme (MWIS).</p>	<p>The Administration to take action as required in paragraph 3 of the minutes</p>
<p>003429 – 004409</p>	<p>Chairman Dr Margaret NG Administration</p>	<p>(a) Dr NG said that under the proposed new section 30B(3), the Building Authority (BA) could require, by notice, "any owner" of a target building to effect inspection and repair. She considered this unfair as the owner to whom the notice was served might only possess a certain number of undivided shares of the titles of the building and should not therefore be held responsible for the inspection and repair of the whole building.</p> <p>(b) The Administration explained that the provision was drafted to cater for different situations. BA would in practice serve notices to the owners related to the subject areas to be inspected and repaired. Only these owners would be held responsible.</p> <p>(c) Dr NG considered that the</p>	<p>The</p>

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		Administration should explain the interpretation of "any owner" and the impact of such an interpretation on the legal liabilities of an owner.	Administration to take action as required in paragraph 3 of the minutes
004410 – 005304	Chairman Mr James TO Administration	<p>(b) Mr TO said that with the implementation of MBIS and MWIS, regular building inspection functions would shift from BD to the private sector. As a result, the department's workload should reduce. In this regard, he asked the Administration to provide the existing staff numbers of the BD, with breakdown by duty/function, and the projected numbers of staff for implementation of the two mandatory inspection schemes.</p> <p>(c) Mr TO considered that the scope and the items to be covered in the prescribed inspection and repair should be spelt out in the principal ordinance rather than in the subsidiary legislation.</p>	The Administration to take action as required in paragraph 3 of the minutes
005305 – 010159	Chairman Mr CHAN Kam-lam Administration	<p>(a) Mr CHAN considered that the Administration should address under the Bill the problem of unauthorized building works (UBWs) and suggested that all these structures should be cleared when a building was selected for inspection and repair.</p> <p>(b) The Administration responded that BD would take actions under its established policy if UBWs were unsafe, or when they became an obstruction to maintenance and repair activities. However, public acceptability must be carefully considered if all UBWs, including minor items such as supporting frames for air</p>	

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		conditioners, were mandated to be removed during mandatory inspection and repair.	
010200 – 011159	Chairman Dr Priscilla LEUNG Administration	<p>(a) Dr LEUNG asked how the Administration could prevent renovation works or construction activities (such as piling) from endangering a building as well as nearby structures.</p> <p>(b) The Administration advised that various registration systems, disciplinary mechanisms and sanctions could ensure the competence and conduct of building professionals and contractors registered under the Buildings Ordinance (Cap. 123). BD would spot-check reports submitted by building inspectors to ensure that the inspections and repair works were carried out in compliance with the relevant requirements. In approving plans for foundation works of new buildings, BD would impose a condition to restrict the maximum vibration limit caused by the works (such as piling works) on adjoining buildings and structures. The limit would be set according to the conditions of the adjoining buildings and structures and a lower limit would be imposed if they were not in good conditions. In the event that an emergency had occurred during the construction works, BD would make a prompt response within a very short period of time. To ensure safety and quality of works in the renovation of existing buildings, owners should consider appointing qualified contractors for the carrying out of the works. A</p>	

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		<p>registration system for minor works contractors was recently introduced to ensure the quality of small-scale building works including renovation works.</p> <p>(c) Dr LEUNG considered that the Administration should take active steps to provide technical guidance to owners of old buildings when they applied to undertake major maintenance or repair works.</p>	
011200 – 012437	Chairman Ms Audrey EU Administration	<p>(a) Ms EU said that detailed provisions for prescribed inspection and repair should be spelt out in the principal Ordinance rather than in the subsidiary legislation. The Bill would give BA too wide a discretion to select an arbitrary owner and hold him responsible for the prescribed inspection and repair. When BA's notice was not complied with, BA could register the notice in the Land Registry against the whole building, and as a result, all owners of a building would be affected by the negligence of one or a few owners.</p> <p>(b) The Administration responded that the existing section 2(1) of the Ordinance provided a broad interpretation of the terms "owner" and "building" to facilitate their application in appropriate cases. The term "any owner", which should be distinguished from "any one owner", was intended to encompass all owners of a building. The term "building" could mean the whole or part of a building.</p>	

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		<p>(c) Ms EU considered that the Administration should consider the feasibility of specifying in the principal Ordinance, instead of the relevant subsidiary legislation, certain aspects such as the standard and requirements of prescribed inspection and prescribed repair.</p>	<p>The Administration to take action as required in paragraph 3 of the minutes.</p>
<p>012438 – 013232</p>	<p>Chairman Ms Miriam LAU Administration</p>	<p>(a) Ms LAU asked whether an inspection to the common areas, external walls and projections of a building would be sufficient to determine the structural safety of a building, which might be affected by alteration works within individual premises.</p> <p>(b) The Administration advised that damage to a building caused by the removal of primary structural members of a building would often be visible in the common areas or external walls. Registered inspectors should report to BA if such defects were observed during building inspection. The existing legislation allowed BA to take follow up action by entering into private premises for inspection and to issue orders to require rectification.</p> <p>(c) Ms LAU said that as BD would assume additional monitoring roles to ensure that the registered inspectors and other professionals were qualified and competent to carry out the required duties under the new inspection schemes, an expansion to BD's current establishment might be necessary.</p>	

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013233 – 014057	Chairman Deputy Chairman Administration	<p>(a) The Deputy Chairman asked whether there would be new codes of practice and practice notes for service providers of building and window inspection and repair.</p> <p>(b) The Administration responded that the codes of practice and practice notes to be issued under the two mandatory inspection schemes would be new documents. Professional bodies were being consulted on the draft documents.</p> <p>(c) The Deputy Chairman asked which party would be held responsible if a notice of prescribed inspection or repair served on an owners' corporation (OC) could not be complied with because the OC could not secure co-operation from the respective owners to effect the required works.</p> <p>(d) The Administration advised that the Hong Kong Housing Society had agreed to contact the owners and the OCs that had received BA's notices and encourage them to respond positively to implement building inspection and repairs.</p>	
014058 – 014852	Chairman Ms Cyd HO Administration	<p>(a) Ms HO was concerned whether the Bill would hold all owners of a building responsible for repair of building defects arising from building works (such as advertisement signboard on external wall) carried out by one or a few owners. She suggested that BA should obtain consent from all owners concerned before granting approval for such works in future.</p>	

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		<p>(b) The Administration clarified that under the Bill, a notice for mandatory inspection and repair of a signboard would only be served on specific owners or persons, and not all the owners of the building. The Administration was of the view that as the Buildings Ordinance (Cap. 123) dealt primarily with safety issues, it might not be the appropriate vehicle to address owners' rights and interests.</p>	
014853 – 015112	Chairman	<p>The Chairman said that how internal alteration works in individual premises and UBWs would be handled should be a focus for discussion.</p>	
015113 – 015316	Chairman Mr WONG Kwok-hing	<p>Mr WONG requested the Administration to provide information to explain how internal alteration works and UBWs would be handled under the Bill and whether its existing policy of prioritizing enforcement actions should be reviewed to facilitate inspection and repair works under MBIS.</p>	<p>The Administration to take action as required in paragraph 3 of the minutes.</p>
015317 – 015521	Chairman Ms Audrey EU	<p>(a) Ms EU said that the existing practice was for BA to issue removal orders to owners of UBWs, and not "any owner" as adopted in the Bill. The Administration should clarify whether there was any change in practice, and explain the criteria for selecting target buildings and the operating details of the two schemes.</p> <p>(b) The Administration explained that the target buildings were selected on the bases of their age, physical conditions, and maintenance history. To ensure transparency,</p>	

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		<p>a selection committee would be set up, which would comprise representatives from Government departments, District Councils and professional bodies.</p>	
015522 – 020010	Chairman Ms Miriam LAU	<p>(a) Ms LAU requested the Administration to provide information to explain why pre-war private buildings not exceeding three storeys in height in urban areas would not be covered under the Bill and provide, if available, the number of such buildings.</p> <p>(b) Ms LAU requested the Administration to provide further information on the Voluntary Building Classification Scheme, including the operational details, implementation time frame and how such a scheme would dovetail with MBIS.</p>	<p>The Administration to take action as required in paragraph 3 of the minutes.</p> <p>The Administration to take action as required in paragraph 3 of the minutes.</p>
020011 – 020152	Chairman Clerk	<p>Members agreed that a meeting should be held on Saturday, 20 March 2010 to receive views from deputations and to meet with the Administration.</p>	