

立法會
Legislative Council

LC Paper No. CB(1)1984/09-10
(These minutes have been seen
by the Administration)

Ref : CB1/BC/4/09/2

Bills Committee on Buildings (Amendment) Bill 2010

Fourth meeting on
Monday, 19 April 2010, at 10:45 am
in the Chamber 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 CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon CHEUNG Hok-ming, GBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king

Members absent : Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, SBS, JP
Dr Hon Priscilla LEUNG Mei-fun

Public officers : Mr Edward TO Wing-hang
Attending 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 Alex CHOW Kim-ping
Assistant Director / Support
Buildings Department

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

Miss Elaine NG Pui-kei
Government Counsel
Department of Justice

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

Staff in attendance : Miss Winnie LO
Assistant Legal Adviser 7

Mr Daniel SIN
Senior Council Secretary (1)5

Ms Christina SHIU
Legislative Assistant (1)7

I Meeting with the Administration

(LC Paper No. CB(1)1625/09-10 -- Minutes of meeting on 20 March 2010)

The minutes of the meetings held on 20 March 2010 were confirmed.

II Meeting with the Administration

(LC Paper No. CB(1)1417/09-10(02) -- Administration's response dated 18 March 2010 to issues raised at the meeting on 19 February 2010 as set out in LC Paper No. CB(1)1390/09-10(08)

LC Paper No. CB(1)1500/09-10(03) -- Administration's response dated 29 March 2010 to questions raised by Hon CHEUNG Hok-ming as

- LC Paper No. CB(1)1417/09-10(01) -- set out in LC Paper No. CB(1)1390/09-10(07)
- LC Paper No. CB(1)1624/09-10(01) -- Administration's letter dated 18 March 2010 in response to letter from Assistant Legal Adviser (LC Paper No. CB(1)1390/09-10(06))
- LC Paper No. CB(1)1624/09-10(01) -- Administration's paper on enforcement against registered professionals and contractors)

Other relevant papers previously issued

- (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)
- LC Paper No. CB(1)1390/09-10(08) -- List of follow-up actions arising from the discussion at the meeting on 19 February 2010
- LC Paper No. CB(1)1390/09-10(07) -- Letter from Hon CHEUNG Hok-ming dated 26 February 2010
- LC Paper No. CB(1)1390/09-10(06) -- Letter from Assistant Legal Adviser to the Administration dated 25 February 2010
- LC Paper No. CB(1)1500/09-10(01) -- List of follow-up actions arising from the discussion at the meeting on 20 March 2010
- LC Paper No. CB(1)1609/09-10(01) -- List of follow-up actions arising from the discussion at the meeting on 31 March 2010)

2. The 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/information on the following --
- (a) For buildings not exceeding three storeys in height, the Administration should further explain the justifications for excluding domestic ones

from and including non-domestic ones in the Bill, and whether any risk assessment had been conducted.

- (b) The Administration should provide more information on why buildings not exceeding six storeys in height were exempted from the mandatory building inspection scheme in New York City, and specify the types of such buildings, and the relevance of the practice to Hong Kong.
- (c) The Administration should provide more information on the type of professional and technical support to be provided to help owners with building inspections and repairs, and whether such support and the subsidy for first-time building inspection would be provided on a long-term basis. The Administration should also indicate whether the Hong Kong Housing Society had plans to improve the services of its Property Management Advisory Centres.
- (d) The Administration should give an assessment on the manpower requirement to cope with the additional workload in carrying out audit checks on the works conducted by registered professionals after the implementation of the two mandatory inspection schemes.
- (e) The Administration should provide information on the tender-rigging activities identified by the Urban Renewal Authority recently and the preventive measures to be adopted.
- (f) The Administration should provide information on the contents of the subsidiary legislation to be made under the Bill.
- (g) The Administration should explain the meaning of a "projection" under the Bill.
- (h) The Administration should provide information on how the relevant practice notes would be released to the sector and the public.

III Any other business

4. There being no other business, the meeting ended at 12:45 pm.

**Proceedings of the
Bills Committee on Buildings (Amendment) Bill 2010
Fourth meeting on Monday, 19 April 2010, at 10:45 am
in the Chamber of the Legislative Council Building**

| Time Marker | Speaker | Subject(s) | Action Required |
|--------------------|--|--|-----------------|
| 000000 – 000255 | Chairman | Confirmation of minutes (LC Paper No. CB(1)1625/09-10) | |
| 000256 – 001023 | Chairman Administration | (a) Opening remarks (b) The Administration's briefing on its response to issues raised at the meeting on 19 February 2010 (LC Paper No. CB(1)1417/09-10(02)) | |
| 001024 – 001430 | Chairman Mr CHEUNG Hok-ming Administration | Service of notices (a) In response to Mr CHEUNG's enquiry, the Administration clarified that an order in respect of common parts of a building from the Building Authority (BA) would normally be served on the owners' corporation (OC), or all owners of the building concerned if it did not have an OC. In case where an owner erected a structure in common areas for his exclusive use, the order would be served that owner. (b) In response to the Chairman's enquiry, the Administration advised that any order issued against an external wall of a building would be served on the owner of the external wall, or on all co-owners if the external wall was common parts of the building. | |
| 001431 – 001606 | Chairman Administration | Registration of notices The Administration explained that, under section 2(1) of the Buildings Ordinance (Cap. 123) (BO), "building" included the whole or any part of a building. BA would only register the | |

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| | | orders against the affected parts of the building in the Land Registry. | |
| 001607 – 002453 | Chairman Administration Prof Patrick LAU | <p>Exemption of domestic buildings not exceeding three storeys in height</p> <p>(a) The Administration clarified that while domestic buildings not exceeding three storeys in height would not be covered under the Bill, commercial, industrial or other non-domestic buildings not exceeding three storeys in height would be covered. Reference had been made to the practice in New York City (NYC) where buildings of less than six storeys were exempted from mandatory building inspections.</p> <p>(b) The Administration advised that there were 13 000 domestic buildings not exceeding three storeys in height in Hong Kong. Many of them were single family houses and were generally well maintained, and the Buildings Department (BD) had only issued 27 repair orders between 2008 and November 2009 against these buildings. Besides, many of these buildings were located in suburban areas and hence posed less risks to the public.</p> <p>(c) The Administration advised that BD maintained regular inspections of pre-war buildings in the urban areas to ensure safety of these buildings. Many of these buildings were inspected once every six or 12 months and follow up actions would be taken if danger was identified.</p> <p>(d) Given the above considerations, domestic buildings not exceeding</p> | |

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| | | <p>three storeys in height would pose lower risks, and the Administration considered it appropriate to exempt them.</p> <p>(e) Prof LAU queried the relevance of the NYC practice to Hong Kong. The Administration undertook to provide further information.</p> | <p>Administration to take action as required in paragraph 3 of the minutes</p> |
| <p>002454 – 003336</p> | <p>Chairman Ms Miriam LAU Administration</p> | <p>(a) Ms LAU queried why domestic buildings not exceeding three storeys in height were exempted whereas commercial and industrial buildings not exceeding three storeys in height were covered.</p> <p>(b) The Administration explained that BD’s assessment had shown that domestic buildings not exceeding three storeys in height generally posed less risk to the public.</p> <p>(c) The Administration further explained that the size, height and number of occupants of such non-domestic buildings were generally greater than those of domestic buildings, and therefore posed relatively higher risks.</p> <p>(d) Ms LAU requested that for buildings not exceeding three storeys in height, the Administration should further explain the justifications for excluding domestic ones from the Bill but including non-domestic ones, and whether any risk assessment had been conducted. The Administration should also provide more information on why buildings not exceeding six storeys in height were exempted from the mandatory building inspection scheme in NYC, and</p> | <p>Administration to take action as required in paragraph 3 of the minutes</p> |

| Time Marker | Speaker | Subject(s) | Action Required |
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| | | <p>specify the types of such buildings, and the relevance of the practice to Hong Kong.</p> | |
| <p>003337 – 004003</p> | <p>Chairman Ms Cyd HO Administration</p> | <p>(a) For projects involving land resumption by the Government, Ms HO asked which party should be responsible for maintenance and emergency repairs after the announcement but before the resumption took place.</p> <p>(b) The Administration advised that owners were responsible for building maintenance before the resumption was completed. However, during the process, BD would only require minimal repair to remove any imminent danger. The Administration would encourage the Urban Renewal Authority (URA) to consider carrying out maintenance if owners did not have the means to do so. For public works projects, once a building was resumed by the Government, the building safety and maintenance responsibilities would rest with the Government.</p> <p>(c) Ms HO said that if a building subject to possible redevelopment was due for mandatory inspection, owners might not be willing to pay for the inspection or subsequent maintenance.</p> <p>(d) The Administration advised that the selection committee would include representatives from URA and the Hong Kong Housing Society (HKHS). It would consider local views and expert advice in selecting buildings for mandatory inspection and exercise flexibility to enable better</p> | |

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| | | co-ordination among different programmes. | |
| 004004 – 004316 | Chairman Deputy Chairman Administration | <p>(a) The Deputy Chairman asked whether the Administration had surveyed all domestic buildings not exceeding three storeys in height to ascertain that they were safe. The Bill should cover such buildings because the conditions of some of them might not be satisfactory.</p> <p>(b) The Administration advised that further details would be provided in its written response. The proposed coverage of buildings was made after two rounds of public consultation, but the Administration would be ready to discuss other options.</p> | Administration to take action as required in paragraph 3 of the minutes |
| 004317 – 004421 | Chairman Mrs Sophie LEUNG Administration | <p>(a) Mrs LEUNG requested the Administration to clarify whether the buildings that were exempted from mandatory inspection in NYC were the "brown stone" type buildings. Such buildings were either detached or semi-detached and were constructed with strong material.</p> <p>(b) The Administration agreed to provide further information.</p> | Administration to take action as required in paragraph 3 of the minutes |
| 004422 – 004850 | Chairman Mr CHEUNG Hok-ming Administration | (a) Mr CHEUNG asked if the two mandatory inspection schemes would cover small houses and village houses in the New Territories. As some village houses were aged and in disrepair; they might become a public safety hazard if they were excluded from the Bill. | |

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| | | <p>(b) The Administration would provide further information concerning the exclusion of domestic buildings not exceeding three storeys in height from the Bill. The Administration advised that buildings erected in accordance with the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) would not be subject to the control of BO.</p> <p>(c) The Chairman said that the Administration should provide more information on the reasons for adopting the NYC's practice in deciding to exempt domestic buildings not exceeding three storeys in height from the Bill, and how such practice was relevant to Hong Kong.</p> | <p>Administration to take action as required in paragraph 3 of the minutes</p> <p>Administration to take action as required in paragraph 3 of the minutes</p> |
| 004851 – 005009 | Chairman Ms Miriam LAU | (a) Ms LAU requested the Administration to further explain the justifications for excluding domestic buildings not exceeding three storeys in height, including aspects such as their risk level, structural designs and safety factor of design. | Administration to take action as required in paragraph 3 of the minutes |
| 005010 – 005505 | Chairman Administration | <p>(a) The Administration briefed members on the proposed coverage of the principal ordinance and its subsidiary legislation.</p> <p>(b) The Administration advised that the contents to be included in the relevant subsidiary legislation would be made available to members for discussion.</p> | |

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| 005506 – 005846 | Chairman Administration | <p>(a) The Administration briefed members on its plan to streamline the application procedures for various financial assistance schemes for building maintenance, provision of first inspection subsidy and one-stop service to help owners and the plan of the Home Affairs Department (HAD) to provide a further paper on support services to help property owners with building management.</p> <p>(b) The Administration advised that if owners failed to carry out mandatory inspection and repairs, BD could, as a last resort and based on public safety consideration, carry out the necessary works in their default and recover the costs, supervision charges and surcharge from owners.</p> | |
| 005847 – 010254 | Chairman Prof Patrick LAU Administration | <p>(a) Prof LAU emphasized that the Construction Industry Council (CIC), an independent statutory body comprising representatives from the construction sector and relevant professional bodies, should be the best platform to consolidate and co-ordinate the industry's views on the Bill.</p> <p>(b) The Administration advised that the industry's support would be important to the smooth implementation of the Bill, in particular in promoting the registration of qualified personnel. The Administration would consult CIC on their possible participation.</p> | |

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| 010255 – 012000 | Chairman Mr KAM Nai-wai Administration | <p>(a) Mr KAM criticized that the services, including opening hours, of HKHS's Property Management Advisory Centres (PMACs) were unsatisfactory.</p> <p>(b) The Administration advised that it would reflect members' views on PMAC services to HKHS for consideration with a view to improving services.</p> <p>(c) Mr KAM said that the Administration should make it a policy objective to help property owners in need. He asked whether it would finance professional and technical support to owners on a long term basis rather than relying on volunteer services provided by professional bodies.</p> <p>(d) The Administration affirmed its commitment to help owners in need. The Building Management Professional Service Scheme was a pilot project to provide owners with voluntary professional advice on property management and follow up services. It would be reviewed after 12 months of operation to determine the way forward.</p> <p>(e) Mr KAM said that HAD should be provided with resources to recruit sufficient staff to assist property owners to carry out building management functions, and to render professional and legal support services to property owners in need.</p> <p>(f) The Administration advised that the Development Bureau had been in close contact with the Home</p> | |

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| | | <p>Affairs Bureau (HAB) and HAD for the implementation of the mandatory schemes.</p> <p>(g) In response to Mr KAM's enquiry, the Administration advised that the HKHS and URA would subsidize eligible owners in need of buildings to carry out building inspections when they were selected for mandatory inspection for the first time. Each building would receive this subsidy only once.</p> <p>(h) The Chairman asked the Administration to provide more information on the type of professional and technical support to be provided to help owners with building inspections and repairs, and whether such support and the subsidy for first building inspection would be provided on a long-term basis. The Administration should also indicate whether HKHS had plans to improve the services of its PMACs.</p> | <p>Administration to take action as required in paragraph 3 of the minutes.</p> |
| <p>012001 – 012734</p> | <p>Chairman Ms Cyd HO Administration</p> | <p>(a) Ms HO asked what measures the Administration would introduce to avoid registered inspectors from recommending more repair items than were necessary.</p> <p>(b) The Administration advised that registered inspectors would have to follow BD's guidelines on inspection items or repair items that should be carried out. BD would audit-check inspection reports and owners could engage different inspectors to carry out inspections and to supervise repair works so as to reduce inspectors' incentive to recommend more</p> | |

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| | | <p>repair items than were necessary.</p> <p>(c) Ms HO asked what assistance the Administration would provide to help owners when the inspector or contractor appointed to carry out inspections or repairs was then de-registered.</p> <p>(d) The Administration advised that owners might need to appoint another qualified professional to assess the quality of works that had been carried out and to rectify any defects. Public education would be stepped up to provide information that enabled owners to select appropriate contractors. URA and HKHS would designate professionals to help those owners in need follow through the inspection and maintenance process.</p> <p>(e) Ms HO said that as 6 500 professionals would be registered to provide services related to the mandatory inspection schemes, the Administration should give an assessment on the manpower requirement to cope with the additional workload in carrying out audit checks on the works done by registered professionals after the implementation of the two mandatory inspection schemes.</p> <p>(f) The Administration responded that it would evaluate BD's staffing need as well as the resources requirement to implement building safety policies.</p> | <p>Administration to take action as required in paragraph 3 of the minutes.</p> |

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| 012735 – 013845 | Chairman Mr LEE Wing-tat Administration | <p>(a) Mr LEE understood that authorized persons and contractors often colluded in bidding for repair and maintenance contracts. He asked how the Administration would tackle the situation, and what advice could be provided to owners in assessing tenders and selecting professional service providers.</p> <p>(b) The Administration advised that under the Operation Building Bright where maintenance works were subsidized by the Government, HKHS and URA, stringent control was imposed to ensure that the proper procedures were followed before subsidies would be disbursed. In the long run, owners would be recommended to follow these procedures when they organise inspection and repair works themselves.</p> <p>(c) The Administration further advised that as the supply of registered inspectors and registered minor works contractors would increase, tender-rigging would be more difficult. Meanwhile, The Hong Kong Institute of Surveyors would draw up a list of indicative fees for repair items to be disseminated through its website. Owners could then compare the tender price against the indicative price range.</p> <p>(d) The Administration advised that while BD was the statutory authority on building safety issues, it might not be the most appropriate organization to protect owners from tender-rigging</p> | |

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| | | <p>activities. Owners could file complaints against malpractice to the relevant professional institutes. The Administration would reflect members' views to the institutes accordingly.</p> | |
| <p>013846 – 014458</p> | <p>Chairman WONG Kwok-hing Administration</p> | <p>(a) Mr WONG enquired about the progress the Administration had made in setting up a registration system for property management companies. These companies could help property owners and OCs with tendering procedures, tender assessment and selection as well as the subsequent works supervision.</p> <p>(b) The Administration responded that HAD had studied overseas experience in registration of property management companies, and was now examining the need to introduce a registration system in Hong Kong. HAD would report the progress to the Panel on Home Affairs separately.</p> | |
| <p>014459 – 015024</p> | <p>Chairman Mrs Sophie LEUNG Administration</p> | <p>(a) Mrs LEUNG said that CIC should be involved to help monitor the fee levels and quality of inspection and repair services as well. She suggested that CIC should be invited to prepare a checklist of areas that owners should examine when contractors had completed repair works, and to provide training to OCs or owners on the use of the checklist. She also suggested that CIC should invite certain respectable persons in the sector to help mediate disputes between property owners and contractors.</p> <p>(b) The Administration advised that it would discuss with CIC on its</p> | |

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| | | <p>possible participation in promoting building safety. The Administration would also consider developing the checklist and stepping up public education programmes for property owners.</p> | |
| 015025 – 015313 | Chairman Mr KAM Nai-wai Administration | <p>(a) Mr KAM said that preventing tender-rigging through increasing the number of inspectors and contractors or developing an indicative price list would be ineffective because owners would still tend to select the lowest bid.</p> <p>(b) Mr KAM asked the Administration to provide information on the tender-rigging activities identified by URA recently and the preventive measures to be adopted.</p> <p>(c) The Administration responded that it could further enhance its public education programmes for owners. However, for inspection and maintenance works that were not subsidized by the Government or the URA or HKHS, owners would ultimately have to make their own decisions.</p> | Administration to take action as required in paragraph 3 of the minutes. |
| 015314 – 020224 | Chairman Dr Margaret NG Administration | <p>(a) Dr NG said the meaning or scope of the term "projection" was not provided in the proposed section 30A of the Bill. The term needed to be given some general exclusive definition in the principal legislation in order to underline the intended scope of inspections. Details of what constituted a projection could be given in the subsidiary legislation.</p> <p>(b) The Administration advised that in short, "projection" included items such as supporting frames for</p> | |

