

立法會
Legislative Council

LC Paper No. CB(2)1837/11-12
(These minutes have been seen by
the Administration)

Ref : CB2/BC/3/11

Bills Committee on Buildings Legislation (Amendment) Bill 2011

Minutes of meeting
held on Monday, 13 February 2012, at 10:45 am
in Conference Room 1 of the Legislative Council Complex

- Members present** : Hon IP Kwok-him, GBS, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon James TO Kun-sun
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon LEE Wing-tat
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
- Members absent** : Hon CHEUNG Hok-ming, GBS, JP
Hon Tanya CHAN
- Public Officers attending** : Item I
- Mr Rex CHANG Wai-yuen, JP
Deputy Secretary for Development (Planning and Lands) 2
- Mr Ryan CHIU Pit-ming
Principal Assistant Secretary for Development
(Planning and Lands) 3
- Miss Florence LO Chung-man
Assistant Secretary for Development (Buildings) 1

Mr HUI Siu-wai
Deputy Director of Buildings
Buildings Department

Mr Alex CHOW Kim-ping
Assistant Director/Corporate Services
Buildings Department

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

Mr Henry CHAN Ngai-him
Government Counsel
Department of Justice

Attendance : Item I
by invitation

Hong Kong General Building Contractors Association Ltd.

Mr Anthony CHAN
President

Hong Kong Institute of Real Estate Administrators

Ir Dr Stanley WONG Kam-cheong
Vice President

The Hong Kong Institute of Surveyors

Mr Vincent HO
Chairman of Building Surveying Division

Yat Tung Community Network Association

Mr KWOK Chung-man
Representative

Individual

Ms TONG Po-chun
Shatin District Council Member

The Institute of Clerks of Works & Construction
Inspectorate (Hong Kong)

Mr David CHAN Po-sum
Vice-Chairman

Individual

Dr LAU Chee-shing
Tai Po District Council Member

The Hong Kong Association of Property Management Companies

Ir Mr Alkin KWONG Ching-wai, JP
President

Clerk in attendance : Mrs Sharon TONG
Principal Council Secretary (2)

Staff in attendance : Miss Winnie LO
Assistant Legal Adviser 7

Mr Jove CHAN
Senior Council Secretary (2) 8

Ms Camy YOONG
Clerical Assistant (2) 7

I. Meeting with deputations and the Administration

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

2. The Bills Committee received the views from the following organizations on the Bill which brought in five proposed measures for further enhancing building safety -

- (a) Hong Kong General Building Contractors Association Ltd.;
- (b) Hong Kong Institute of Real Estate Administrators;
- (c) The Hong Kong Institute of Surveyors;

- (d) Yat Tung Community Network Association;
- (e) Ms TONG Po-chun, Shatin District Council Member;
- (f) The Institute of Clerks of Works & Construction Inspectorate (Hong Kong);
- (g) Dr LAU Chee-shing, Tai Po District Council Member; and
- (h) The Hong Kong Association of Property Management Companies.

(Post-meeting note: The submissions of the Institute of Clerks of Works & Construction Inspectorate (Hong Kong) and the Hong Kong Association of Property Management Companies were received after the meeting and circulated to members vide LC Paper No. CB(2)1086/11-12(02) and CB(2)1115/11-12(01) on 15 and 17 February 2012 respectively.)

3. The Bills Committee noted that the deputations in general supported the Bill and agreed with them that the legislative intent of the Bill was to enhance building safety. It noted the following concerns raised by the deputations -

- (a) the property owners might request to verify the warrant issued and refuse entry;
- (b) specific requirements on the qualifications, e.g. job rank, of the officers who would enter the premises with a warrant granted by the magistrate's court should be provided;
- (c) specific definition of "reasonable grounds" for a magistrate to consider issuing a warrant should be provided;
- (d) the surcharge on default works ought to be imposed only on those property owners who were not willing to pay for the maintenance and repair in order to comply with the statutory orders or notices issued by the Building Authority ("BA");
- (e) specific requirements on the regularization of signboards should be provided; and

- (f) the duty of registered inspectors and the scope of inspection of unauthorized building works should be clearly defined.

4. The Bills Committee requested the Administration to provide the following information -

- (a) the circumstances under which BA or authorized officers could apply to the magistrate's court for a warrant to enter into individual premises for inspection or enforcement actions under the proposed provision;
- (b) the qualifications or rank of officers who would be authorized by BA to enter or break into the premises;
- (c) the circumstances which would be classified as "emergency situation" and the grounds for officers of the Buildings Department to invoke the power under section 22 of the Buildings Ordinance (Cap. 123) to break into premises under emergency situations and the details of the five relevant cases since 2006;
- (d) the person(s) who would decide whether a building had immediate danger;
- (e) the handling of pre-existing unauthorized building works; and
- (f) a detailed response to the issues of concern raised by deputations in their submission and at the meeting.

II. Any other business

Date of the next meeting

5. The Chairman reminded that the next meeting would be held on Thursday, 1 March 2012, at 4:30pm.

Withdrawal of membership

6. Members noted the withdrawal of Mr CHAN Kam-lam from the Bills Committee with effect from 10 February 2012.

7. There being no other business, the meeting ended at 12:31 pm.

Council Business Division 2
Legislative Council Secretariat
25 April 2012

**Proceedings of meeting of
Bills Committee on Buildings Legislation (Amendment) Bill 2011
held on Monday, 13 February 2012, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action Required
000158 - 000550	Chairman	Opening remarks	
000551 - 000827	Chairman Hong Kong General Building Contractors Association Ltd.	Presentation of views	
000828 - 001410	Chairman Hong Kong Institute of Real Estate Administrators	Presentation of views (LC Paper No. CB(2)1028/11-12(01))	
001411 - 001928	Chairman The Hong Kong Institute of Surveyors	Presentation of views	
001929 - 002217	Chairman Yat Tung Community Network Association	Presentation of views (LC Paper No. CB(2)1043/11-12(01))	
002218 - 002625	Chairman Ms TONG Po-chun, Shatin District Council Member	Presentation of views	
002626 - 003043	Chairman The Institute of Clerks of Works & Construction Inspectorate (Hong Kong)	Presentation of views	
003044 - 003436	Chairman Dr LAU Chee-shing, Tai Po District Council Member	Presentation of views (LC Paper No. CB(2)1043/11-12(02))	
003437 - 004049	Chairman The Hong Kong Association of Property Management Companies	Presentation of views	
004050 - 004628	Chairman Prof Patrick LAU Dr LAU Chee-shing, Tai Po District Council Member	The public views on the proposed measure of obtaining warrant from a magistrate for entry into the interior of individual premises; Whether the interior of individual premises should be	

Time marker	Speaker	Subject(s)	Action Required
		<p>included in the scope of inspection that registered inspectors were requested to carry out; and</p> <p>Fairness of the surcharge on defaulted works imposed on owners who were willing to maintain and repair their buildings but the works were hindered by other owners, particularly of the aged buildings</p>	
004629 - 005356	<p>Chairman Ir Dr Raymond HO Hong Kong Institute of Real Estate Administrators The Hong Kong Association of Property Management Companies</p>	<p>The consideration of extending the qualification requirements of inspectors to include technicians who were the associate members of the professional bodies of architects, engineers and surveyors in Hong Kong;</p> <p>The current situation of abandoned signboards and whether the Government had properly handled these abandoned signboards; and</p> <p>The regularization of the registration of property management companies</p>	
005357 - 010001	<p>Chairman Ms Audrey EU Hong Kong General Building Contractors Association Ltd.</p>	<p>Wide scope of the provision in the proposed section 22(1B)(a)(i) and (ii);</p> <p>The scope of circumstances under which Building Authority ("BA") or authorized officers could apply to the magistrate's court for a warrant to enter into individual premises for inspection or enforcement actions under the proposed provision;</p> <p>The qualifications, e.g. job rank, of officers who would be authorized by BA to enter or break into the premises; and</p> <p>The definition of "emergency situation" and situation under which officers of the Building Department ("BD") would invoke the power under the existing section 22 of the</p>	<p>The Bills Committee requested the Administration to provide its response to Ms Audrey EU's concerns -</p> <p>(a) to advise on the circumstances under which BA or authorized officers could apply to the magistrate's court for a warrant to enter into individual premises;</p> <p>(b) to advise on the qualifications and rank of BD's officer who would be authorized to enter or break into the premises; and</p> <p>(c) to explain the circumstance which would be classified as "emergency situation" and the grounds for BD's officers to invoke the power under section 22 of BO to</p>

Time marker	Speaker	Subject(s)	Action Required
		Buildings Ordinance ("BO") (Cap. 123) to break into premises	break into premises under emergency situation and the details of the five relevant cases since 2006.
010002 - 010731	Chairman Ms Cyd HO The Hong Kong Institute of Surveyors Yat Tung Community Network Association The Hong Kong Association of Property Management Companies Ms TONG Po-chun, Shatin District Council Member Hong Kong Institute of Real Estate Administrators	The concern about the threshold of application for warrant to enter into individual premises and the consideration of "emergency situation"	
010732 - 011255	Chairman Ms Miriam LAU Hong Kong General Building Contractors Association Ltd. Hong Kong Institute of Real Estate Administrators The Institute of Clerks of Works & Construction Inspectorate (Hong Kong) The Hong Kong Institute of Surveyors The Hong Kong Association of Property Management Companies	The scope of circumstances under which BA or authorized officers could apply to the magistrate's court for a warrant to enter into individual premises; The qualifications, e.g. job rank, of officers who would be authorized to enter or break into the questioned premises; and The follow-up actions to be taken when subdivided units inside the interior of premises were identified by BD's inspectors	
011256 - 013605	Chairman Admin Yat Tung Community Network Association	The Administration's responses to views and enquiries of the deputations and the Bills Committee	
013606 - 014025	Chairman Ms Audrey EU Mr Abraham SHEK	The definition of "emergency situation" that BD's officers would invoke the power under the existing section 22 of BO to break into premises under emergency situations; and The scope of circumstances under which BA or authorized officers would apply to the magistrate's court for a warrant to enter into individual premises	

Time marker	Speaker	Subject(s)	Action Required
		for inspection or enforcement actions under the proposed provision	
014026 - 014136	Chairman Mrs Sophie LEUNG	Person(s) to decide whether a building had immediate danger; and The follow-up actions of BD to handle pre-existing unauthorized building works ("UBW")	The Administration to advise on - (a) the person(s) who would decide whether a building had immediate danger; and (b) the handling of pre-existing UBW
014137 - 014350	Chairman Yat Tung Community Network Association	The definition of reasonable grounds for the application for warrant; The existing signboards control system; and The difficulties faced by the registered inspectors in the inspection of UBW	
014351 - 014406	Chairman The Institute of Clerks of Works & Construction Inspectorate (Hong Kong)	The consideration of relaxing the pre-requisite qualifications of registered inspector	
014407 - 014441	Chairman Hong Kong Institute of Real Estate Administrators	The nature of surcharge on defaulted works that it was the cost of BD to coordinate the repair works	
014442 - 014512	Chairman Admin	The practice notes for the registered inspectors to conduct inspection; and Undertaking by the Administration to provide its response to the issues of concerns raised by the deputations	The Administration to provide a detailed response to the issues of concern raised by the deputations.
014513 - 014734	Chairman	Dates of next meeting; Withdrawal of membership; and Closing remarks	