

立法會
Legislative Council

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seen by the Administration)

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**Bills Committee on
Building Management (Amendment) Bill 2000**

**Minutes of the first Meeting
held on Friday, 25 February 2000 at 2:30 am
in Conference Room A of the Legislative Council Building**

Members Present : Hon CHAN Kam-lam (Chairman)
Hon Edward HO Sing-tin, SBS, JP (Deputy Chairman)
Hon HO Sai-chu, SBS, JP
Hon Albert HO Chun-yan
Hon LEE Wing-tat
Hon Eric LI Ka-cheung, JP
Hon NG Leung-sing
Hon James TO Kun-sun
Hon Gary CHENG Kai-nam, JP
Hon Howard YOUNG, JP
Hon CHOY So-yuk
Hon TAM Yiu-chung, GBS, JP

Members Absent : Hon Fred LI Wah-ming, JP
Hon CHAN Yuen-han
Hon Bernard CHAN
Hon Andrew WONG Wang-fat, JP

Public Officers Attending : Mr Peter P T CHEUNG
Deputy Secretary for Home Affairs(2)

Mr LUI Hau-tuen
Deputy Director of Home Affairs

Mr Francis LO
Principal Assistant Secretary for Home Affairs(5)

Mr LEE Chee-chung
Chief Fire Officer (Protection/Fire Safety)

Mr CHOW Kim-ping
Chief Building Surveyor (Legal)

Mr J D SCOTT
Senior Assistant Law Draftsman

Miss Shirley WONG
Government Counsel

Clerk in Attendance : Miss Flora TAI
Chief Assistant Secretary (2) 6

Staff in Attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Ms Miranda LEUNG
Senior Assistant Secretary (2) 9

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I. Election of Chairman

Mr CHAN Kam-lam was nominated by Mr Howard YOUNG as the Chairman of the Bills Committee and the nomination was seconded by Mr Gary CHENG. As there were no other nominations, Mr CHAN Kam-lam was elected Chairman of the Bills Committee.

2. Mr Edward HO was nominated by Mr Gary CHENG as the Deputy Chairman of the Bills Committee and the nomination was seconded by Mr TAM Yiu-chung. As there were no other nominations, Mr Edward Ho was elected Deputy Chairman of the Bills Committee.

II. Meeting with the Administration

[LegCo Brief : S/F(3) in HAB/CR/8/10/12, LC Paper NO. LS 67/99-00 and CB(2)1151/99-00]

3. At the invitation of the Chairman, Deputy Secretary for Home Affairs (DS(HA)2) gave a brief account of the purpose and background of the Bill. DS(HA)2 stressed that the management and maintenance of private buildings was the common responsibility of all owners. As a matter of principle, Government should not and could not take up the responsibility of building management and maintenance on their behalf. In addition, the costs for such services could not be paid out of public monies. The main purpose of amending the Building Management Ordinance (Cap 344) (BMO) was to facilitate the formation of owners' corporations (OCs) among owners in new buildings as well as to put in place a legislation to resolve management and maintenance problems. The Bill contained five main proposals -

- (a) specification of building management and maintenance standards for compliance by OCs;
- (b) mandatory management of buildings with serious management and maintenance problems;
- (c) facilitating the formation of OCs in new buildings;
- (d) mandatory obligation for OCs to effect third party insurance in relation to the common parts of the building; and
- (e) the requirement for OC's accounts to be audited by a qualified accountant.

4. DS(HA)2 explained that mandatory management of buildings was targeted at buildings with serious management and maintenance problems. As owners of such buildings were reluctant to shoulder management and maintenance responsibilities, dilapidated buildings posed a serious threat to occupants as well as passersby. In the circumstance, Government had the responsibility to intervene. DS(HA)2 advised members that there were about 100 buildings requiring mandatory management. They were located in various old districts throughout Hong Kong Island, Kowloon and the New Territories.

5. DS(HA)2 added that the measures proposed in the Bill alone would not provide a solution to all the building management and maintenance problems, which would require cooperation from various parties-

- (a) Owners should perceive management of their building a shared responsibility, and in turn actively participate in activities relating

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to building management and maintenance for their interest and benefits;

- (b) Government should render assistance as appropriate. The Administration, through its liaison officers in various district offices, had adopted various measures in recent years to promote awareness of building management among members of the public in order to improve the management and safety in private buildings, such as encouraging the formation of OCs, providing support and assistance to owners through setting up the Building Management Resource Centre (BMRC) and other measures. There were 2 BMRCs located on Hong Kong Island and in Kowloon respectively, where advice on legal issues and building management was offered by voluntary lawyers and surveyors free of charge;
- (c) Various government departments should also step up enforcement actions, especially in respect of fire and building safety. Under the coordination of the Home Affairs Department (HAD), the Fire Services Department, the Buildings Department and the Electrical and Mechanical Services Department had participated in the work of the District Building Management Coordination Committees (DBMCC) to deal with buildings with management problems and to recommend to the Administration long-term solutions to building management and maintenance problems based on its experiences; and
- (d) Government must introduce legislation to supplement various measures. Appropriate amendments must be made to existing legislation to facilitate the formation of OCs. It was also hoped that through legislative measures, responsible owners could form OCs even under adverse conditions. In the event that an OC could not be formed, the owners concerned could at least appoint a building manager for the management of their buildings.

6. DS(HA)2 informed members that the Administration had consulted the then 18 Provisional District Boards and other professional bodies on the Bill and they generally supported the proposed amendments. The Administration hoped that the Bill would be enacted within the current Legislative Council (LegCo) session.

Formation of OCs

7. Members noted that under the BMO, owners must act in accordance with the deed of mutual covenant in forming an OC. If the deed of mutual covenant did not provide for the formation of an OC, the owners must convene

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a meeting of owners in one of the following manners as provided in the BMO -

- (a) by resolution of the owners of not less than 50% of the owners' shares for the appointment of a management committee (MC) in accordance with section 3(2)(b);
- (b) by resolution passed by a majority of the votes of the owners at an owners' meeting convened to appoint a management committee under an order made by the Secretary for Home Affairs (the Authority) upon application by the owners of not less than 30% of the shares in accordance with section 3A; and
- (c) by resolution passed by a majority of the votes of the owners at an owners' meeting convened under an order made by the Lands Tribunal upon application by the owners of not less than 20% of the shares in accordance with section 4.

8. DS(HA)2 said that in order to facilitate the formation of OCs in new buildings, the Bill proposed to simplify the manner for convening meetings to appoint MCs. Under the proposal, the quorum for convening such meetings should be not less than 10% of the owners and MCs would be appointed by a resolution passed by a majority of the owners voted either personally or by proxy at a meeting.

9. Most members present at the meeting were of the view that the existing requirements described in paragraph 7 above were so strict that it was very difficult for owners of old buildings to form OCs. Mr Gary CHENG said that the Democratic Alliance for the Betterment of Hong Kong (DAB) had examined and consulted the public on the BMO. Based on the views collected, the DAB had prepared a consultation paper on "Proposed amendments to the BMO" (the consultation paper) (circulated to members vide LC Paper No. CB(2)1210/99-00(01) on 28 February 2000). One of the DAB's proposals called for relaxing the requirement in terms of owners' shares for the formation of OCs by lowering the percentages from the current 50%, 30% and 20% in sections 3, 3A and 4 to 30%, 20% and 10% respectively. The purpose was to facilitate the setting up of OCs in existing buildings with a view to improving building management.

10. Mr LEE Wing-tat pointed out that the fact that less than 20% of the private buildings throughout Hong Kong had formed OCs was a testament to the difficulties encountered by owners in forming OCs. The number of OCs would not increase if the requirement in respect of owners' shares in forming an OC remained unchanged. As regards the proposal to lower the quorum requirement for convening an owners' meeting to not less than 10% of the owners, Mr LEE considered that the proposal was too lax. He was of the view that the requirements of 20% - 30% were acceptable and reasonable. He

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pointed out that a lot of problems would arise if the percentage was lowered from 50% to 10%. He cited the following examples-

- (a) Given the inherent conflicts between owners of residential units and owners of shop units in composite buildings over the issue of building management, and the low quorum requirement of 10% of the owners, it would be very easy for owners to form different interest groups to convene their own meetings to appoint their own MCs. In theory, several owners' meetings could take place at the same time within the same building, which would cause confusion;
- (b) A MC dissolved by resolution at an owners' meeting attended by 10% of the owners could be re-appointed by resolution passed at another owners' meeting attended by another 10% of the owners; and
- (c) In the case of a tenement building where there were only a few units, one or two owners would have met the quorum requirement to convene an owners' meeting to form an OC and could control the management of the building.

11. In response to members' concerns, DS(HA)2 made the followings points -

- (a) The proposed quorum of not less than 10% of the owners to convene an owners' meeting was to facilitate new buildings rather than existing buildings to form OCs. Many of the building management problems were originated from the failure to form OCs at the early stage of the occupation of the buildings. Therefore, the purpose of this proposal was to facilitate the formation of OCs in new buildings;
- (b) For large scale property development, the project took years to complete and buildings were occupied in phases. In addition, it took time for all the flats to be sold out when the property market was stagnant. Under the circumstances, it would be undesirable to await full occupancy of buildings for the setting up of OCs. If the quorum requirement was too high, owners of new buildings would also have difficulties in convening an owners' meeting to form an OC;
- (c) As regards members' concern that low quorum requirement might give rise to different interest groups forming their own OCs or dissolving the MC, the Administration held the view that these could happen in theory but not in practice for two reasons. Firstly, prior notice must be given to owners for convening an

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owners' meeting; and secondly, owners who wanted to participate in building management would be eager to attend the meeting. The meeting hence was unlikely to be controlled by 10% of the owners. As long as there were clear provisions in the legislation, matters relating to building management would be ultimately decided in accordance with the wishes of the majority of owners.

12. Mr LEE Wing-tat considered that the proposals by the Administration failed to address management problems in older buildings. Mr LEE said that he was not concerned about whether OCs could be formed in large scale residential estates. He pointed out that in large scale residential estates, it was common for management companies to be appointed by developers and there was no need to form OCs. As developers was mindful about their reputation, management and fire safety of such buildings were generally satisfactory. Mr LEE said that, judging from his experience, it was the management problems of older buildings that caused concern.

[The Chairman left the meeting at this juncture due to other commitment and the Deputy Chairman took over the chair.]

13. Mr Albert HO was of the view that the proposed quorum requirement for owners of new buildings to convene an owners' meeting was too low while the current requirement under the BMO was too strict. Mr HO questioned why there was such a big policy difference in respect of the requirements between new and old buildings. He said that the Democratic Party agreed with the DAB's view that it was necessary to amend sections 3, 3A and 4 to lower the requirements in respect of owners' shares. As for the quorum for convening an owners' meeting for the formation of an OC, he considered that 30% of the owners to be an acceptable requirement. He said that if Government did not accept members' views, he would consider proposing Committee stage amendments. Mr HO also asked Government to consider lowering the percentage of owners' shares required for terminating the appointment of building managers by OCs.

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14. Miss CHOY So-yuk opined that the proposed quorum of not less than 10% of the owners required to convene an owners' meeting to form an OC was reasonable but such proposal should also apply to existing buildings so as to facilitate the formation of OCs in such buildings. Miss CHOY pointed out that owners of some buildings had to appoint management companies to manage their buildings because of the failure to form OCs. As such, they did not have an OC's power to deal with unauthorized structures and other maintenance problems.

15. DS(HA)2 explained to members the rationale behind the proposed quorum of not less than 10% of the owners required to convene an owners' meeting to form an OC. The Administration had then considered two options,

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i.e. mandatory or automatic formation of OCs in new buildings. Legal advice from the Department of Justice indicated that the first option might be in breach of the Bill of Rights Ordinance and other relevant ordinances because forcing people to form or not to form associations might infringe human rights. The Government had therefore abandoned the first option. As regards the second option, the Government was of the view that the formation of an OC would be futile if no owners were willing to take up the duties of the management committee.

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16. DS(HA)2 further explained that the requirements mentioned in paragraph 7 above had worked well ever since their implementation in 1993. The Administration considered that the current legislation governing existing buildings was adequate. The proposed quorum of not less than 10% of the owners required to convene an owners' meeting to form an OC was based on paragraph 5(b) of the Third Schedule of the BMO concerning the quorum for convening an owners' meeting (10% of the owners) to re-appoint members of the management committee. DS(HA)2 stressed that the Administration's proposal was a result of an extensive consultation. It was not drawn up behind closed doors and the Administration was more than happy to provide information in this respect for members' reference. He added that the quorum requirement of not less than 10% of the owners as proposed in the Bill would also apply to buildings with serious management and maintenance problems, in order to facilitate the formation of OCs by resolution of owners at a meeting convened under an order made by the Lands Tribunal.

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17. As regards members' request to lower the quorum requirement of meetings convened to form OCs in existing private buildings, DS(HA)2 said that the Administration needed to study the proposal carefully before giving a reply to members.

18. Mr TAM Yiu-chung pointed out that owners of detached houses in some estates such as the Fairview Garden in Yuen Long held "divided shares". As a result, they were unable to form OCs because they were not in compliance with "determination of owner's shares" under section 39 of the BMO. Mr TAM expressed concern that the Bill had not addressed this problem.

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19. Mr Albert HO said that he had handled similar cases and the solution was to allocate each residential unit with one share and a single share to all the common parts of the estate. In doing so, owners with "divided share" were able to form OCs. Mr TAM informed members that the problem with Fairview Garden was much more complicated in that the developer held a large number of shares of the common parts. The Administration undertook to follow up this problem.

Calculation of a quorum

Adm 20. Mr Albert HO pointed out that, under the BMO, the calculation of a quorum was based on owners' shares or the number of owners. Lawsuits had been brought because the calculation of a quorum and the definition of "owner" were not clear. Although the case had been closed, the problem remained unresolved. For example, the Administration had yet to clarify the number of owners that should be counted in cases like a single residential unit jointly owned by three persons and a single owner owning several units in the same building. Mr HO said that the HAD had issued guidelines on the calculation of a quorum and the court had also given supplementary opinions, but such guidelines and opinions were not legally binding. DS(HA)2 said that the Administration would give a written reply to the examples cited by Mr HO.

Adm 21. DS(HA)2 explained that the 50%, 30% and 20% mentioned earlier (paragraph 7 referred) in respect of the BMO actually referred to owners' shares while the 10% proposed in Clause 3 of the Bill referred to the number of owners. Senior Assistant Law Draftsman (SALD) added that the definitions of "owner" and "share" were given in section 2 of the BMO while section 39 explained the determination of owner's shares.

22. Deputy Chairman pointed out that the Chinese version of "不少於 50% 的業主" and the English version of "not less than 50% of the shares" in section 3(2)(b) had confused "owners" with "shares". DS(HA)2 clarified that section 3(2)(b) referred to "owners of not less than 50% of the shares".

23. Miss CHOY So-yuk asked whether the Bill imposed any restrictions on proxies appointed by owners in order to prevent the owners' meeting being manipulated by a small number of owners.

24. Principal Assistant Secretary for Home Affairs (PAS(HA)5) stressed that the Administration would try its best to encourage owners to actively participate in management of their buildings. The most direct participation was for owners to take part in the discussion at the owners' meetings. If owners could not attend such meetings personally due to various reasons, they could indirectly participate by appointing a proxy in accordance with section 4 of the Third Schedule of the BMO. On members' question as to whether proxies should be counted in the calculation of a quorum, PAS(HA)5 said that the Bill proposed to add paragraph 5(2) to Schedule 3 to the effect that a proxy should be treated as being an owner present at the meeting for the purpose of establishing a quorum. The Bill did not impose any restrictions on the vote by a proxy.

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25. SALD supplemented that if restrictions were to be imposed on the vote by a proxy, it could be done by attaching different weights to the votes cast by proxies and owners. For example, votes cast by a proxy and an owner would be counted as half a vote and a vote respectively. However, this would touch upon policy issues. DS(HA)2 considered that setting different weights to votes would be arbitrary and subject to disputes. The proposal was not desirable.

26. Mr Gary CHENG pointed out that the definitions of “owner”, “share” and “proxy” should be looked upon from a wider perspective because such terms appeared in more than one section of the BMO. In general, these terms applied to the followings situations -

- (a) for the purpose of establishing a quorum for a meeting to form an OC and the number of owners’ shares required for the appointment of a management committee;
- (b) the quorum of an owners’ meeting; and
- (c) the number of owners’ shares required for the dismissal of a management company.

27. On item (b) above, Mr Gary CHENG considered it necessary to lower the quorum requirement. He pointed out that a meeting called to make important decisions (e.g. the dissolution of the management committee) required a quorum of 20% of the total number of owners under section 30 of the BMO. The quorum was 10% of the total number of owners in respect of a meeting for other purposes. In some large housing estates, particularly those with a higher percentage of non-owner tenants, it was very difficult to convene a meeting. The DAB suggested that two different standards should be set in respect of quorum requirement. An owners’ meeting should be allowed to proceed as long as either of the two requirements was satisfied. For example, a quorum should be set at 20% of the owners or 200 owners, whichever was smaller in the number.

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28. Mr CHENG further said that the DAB had put forward other proposals which were detailed in the consultation paper. DS(HA)2 undertook to give written response to DAB’s proposals.

Specific management and maintenance standards

29. In response to Deputy Chairman’s question, DS(HA)2 said that the Bill empowered the Authority to prepare, review and publish in the Gazette a Code of Practice on Building Management and Maintenance (the Code). A copy of the draft Code was at Annex B to the LegCo Brief. The Code provided an objective criteria in respect of building safety, fire safety and building

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cleanliness for the Authority to assess whether mandatory management should be imposed on certain buildings with serious management and maintenance problems.

30. Referring to part 4 of the Code regarding fire safety requirements, Mr LEE Wing-tat pointed out that some of the criteria were quite objective while others were hard to measure. He asked how the relevant requirements could be enforced.

31. In response, DS(HA)2 said that the Code set out standards of good practice which should be observed rather than a minimum standard. The enforcement agencies had been conducting surveys of buildings throughout the territory on a regular basis, in order to ensure the buildings were in compliance with the specifications of fire and building safety. In addition, a DBMCC was set up in every district to identify buildings with problems and to recommend to the Authority on whether orders should be made for the mandatory management of such buildings.

32. PAS(HA)5 added that the standards specified in the Code were mostly based on the relevant requirements in the Fire Services Ordinance, the Buildings Ordinance and the Electricity Ordinance. As the rules instilled different degrees of safety on a person, each of them was given different weights. The Authority had joined the Fire Services Department, the Buildings Department, the Electrical and Mechanical Services Department and the Home Affairs Department in establishing the relevant building management and maintenance standards so that the DBMCC could assess the need for imposing mandatory management on certain buildings.

Adm 33. As regards Miss CHOY So-yuk's question as to how to resolve conflicts in building management between owners of shop units and owners of residential units in composite buildings, DS(HA)2 undertook to give a written reply.

Mandatory management of buildings

34. DS(HA)2 explained that mandatory management of buildings only targeted at buildings with serious management and maintenance problems which did not have managers. The Authority would make reference to the objective standards in the Code in considering whether an order for mandatory management should be made in respect of a building under the new section 40B of the Bill. In response to Mr LEE Wing-tat, DS(HA)2 said that prior to the issue of such an order, the relevant enforcement agencies would hold many rounds of consultation with the owners of the problematic building in order to understand the situation. If Government knew that owners concerned had failed to take any action to improve the management of their buildings to

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satisfy the required standards, it was Government's responsibility to order these owners to make the necessary improvements.

35. Mr LEE Wing-tat asked whether owners could appeal against the decision of the Authority. SALD pointed out that under section 45 of the BMO, the Lands Tribunal had jurisdiction to hear and determine any proceedings specified in the Tenth Schedule, including the jurisdiction to hear the proceedings initiated by the Management Committee or any owner who was aggrieved by the order made by the Authority under the proposed section 40B(1). He was of the view that owners could challenge the Authority's order in the Lands Tribunal.

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36. Mr Albert HO believed that the power conferred on the Authority under proposed section 40B(1) was absolute and owners could not challenge the Authority's order in the Lands Tribunal. At the request of Mr HO, Assistant Legal Adviser undertook to provide legal advice on this matter in due course.

37. Members noted that under the mandatory management scheme, the Authority could apply to the Lands Tribunal for an order requiring an owner to appoint a building management agent to manage the building in question. The management agent must be one of those specified by the Authority in the Gazette. Mr Albert HO asked how the Authority had drawn up the list.

38. DS(HA)2 explained that the proposed criteria of inclusion in a list of building management agents was detailed in Annex C to the LegCo Brief. Building management agents on the list must be practising members of the Hong Kong Institute of Housing and the Hong Kong Institute of Surveyors. PAS(HA)5 added that the Administration had consulted the Hong Kong Association of Property Management Companies in drawing up the list. The 70 members of the Institute generally met the criteria in Annex C and most of them had expressed a willingness to be included in the list.

39. Pointing out that the registration procedure of the Hong Kong Institute of Housing was enacted just a few months ago and had yet to be implemented, Deputy Chairman questioned the appropriateness of the requirement in paragraph 4 of Annex C which required a building management agent to have not less than three years' experience in property management after registration. DS(HA)2 clarified that paragraph 4 of Annex C required an agent to have a minimum of three years' post-qualification experience in property management rather than three years' relevant experience after registration.

40. Mr Albert HO pointed out that in the past, owners could appoint agents through tender, which had the advantage of allowing owners to choose the suitable agents. Mr HO asked whether a tendering procedure would be available to mandatory management. If not, who would be responsible for drawing up the detailed rules for the appointment of management agents.

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41. PAS(HA)5 explained that the order made by the Lands Tribunal might direct the agents' tenure and determine such terms and conditions as remuneration and expenses which should be payable by the owners to the agent. A tendering procedure was therefore unnecessary. The OC could select and appoint a management agent from the list published in the Gazette. If a building did not have a management agent, the Lands Tribunal would order an owner to appoint a building management agent from the list. DS(HA)2 pointed out that managing problematic buildings was not an enviable job and it was doubtful whether the management fees could be recovered. Quite a number of the management agents on the list were those who wished to make meaningful contribution to the community.

42. Deputy Chairman asked what would happen if owners of a building refused to pay management fees after a management agent had been appointed in compliance with a court order.

43. SALD pointed out that under the Tenth Schedule of the BMO, the Lands Tribunal had the power to enforce the provisions in connection with the BMO. If owners did not pay management fees, the management agent could make an application through the Authority to the Lands Tribunal to request for enforcement of legal proceedings in connection with default of payment. Mr HO added that if the owners did not make the payment in defiance of a court order, the court could make a charging order on the properties in question.

44. As management of buildings with serious problems was not an enviable job, Mr Albert HO expressed concern that no management agents would be willing to take up the job. He asked whether the Administration would consider setting up a fund to help finance the management costs for mandatory management of buildings, which would be recovered from the owners afterwards.

45. DS(HA)2 replied that the Administration had already set up two funds, namely the Fire Safety Improvement Loan Scheme and the Building Safety Improvement Loan Scheme. As applicants were required to have collateral security for a loan under these two schemes, the number of applications had been few since their implementation. Government had concluded after careful consideration that it was not feasible to provide financial assistance to owners under the mandatory building management scheme.

46. PAS(HA)5 pointed out that management fees were recurrent expenses which should be borne by the owners themselves. Under mandatory management, the owners concerned were required to share the responsibility which they had long neglected. If Government paid the expenses first, they would be tempted to shirk their responsibilities again and thereby making the scheme inoperable.

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47. Mr TAM Yiu-chung pointed out that given that the Bill would empower the Authority to enforce mandatory management of buildings and the court could make a charging order on the properties whose owners refused to pay management fees, it seemed unnecessary for Government to provide financial assistance in this respect.

48. Miss CHOY So-yuk expressed concern that owners might have difficulties in paying the fees, as management costs of problematic buildings would be very high and there were not many units in a building to share the cost. She suggested that the Administration should offer assistance by co-ordinating building management of a number of problematic buildings in the same street to be under a single management agent so as to reduce the amount of management fees to be shared by owners. She also expressed concern about the working environment for management staff.

49. In response, DS(HA)2 said that liaison officers in various districts would try their best to help owners to overcome building management problems. The decision to have several buildings managed by a single management agent should be made by owners themselves. It was undesirable to make legislation in this respect and in any event, such legislation would be difficult to enforce. Miss CHOY urged the Administration to have regard to the financial burden of owners when designating management agents for buildings which required mandatory management.

Auditing of OC's Accounts

50. Mr Eric LI said that the Hong Kong Society of Accountants (HKSA) had written to LegCo proposing amendments to section 27(1A) on the requirement that the financial statements of an OC should be "certified" by an accountant. Mr LI pointed out that the "certification" of an OC's financial statement was outside the responsibility of professional accountants.

51. DS(HA)2 replied that the Administration had consulted the relevant departments on this issue and had come to the initial conclusion that the proposals by HKSA were acceptable and the Administration would submit the proposed amendments to the Bills Committee for consideration as early as possible.

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Insurance

52. Regarding the proposal that OCs should be required to take third party insurance in respect of the building as well as the common parts, Mr Howard YOUNG pointed out that the insurance premium in respect of problematic buildings would be very high in view of the many criteria adopted by insurance

companies in assessing the risks involved. He expressed concern that owners might not be able to afford the high premium. He asked the Government whether it had discussed this issue with the insurance companies.

53. DS(HA)2 said that the Administration had consulted professional insurance bodies and they were all in favour of the proposal to require OCs to take third party insurance in respect of their buildings. Implementation details of the proposal were being studied. He further said that the detailed procedure of the proposal would be introduced in the form of subsidiary legislation into LegCo upon approval by the Chief Executive in Council. The Administration would consult the insurance bodies and those who were experienced in building management while drawing up the relevant regulations.

Scope of the Bill

54. Mr LEE Wing-tat asked whether the Bill would also deal with unauthorized structures.

55. DS(HA)2 explained that the Buildings Ordinance empowered the Building Authority to make order to demolish unauthorized structures. The purpose of the Bill was to improve building management rather than dealing with unauthorized structures. Despite the safety risk posed by unauthorized structures, the Administration could not invoke the Code to demolish them. It could only invoke proposed section 40B of the Bill to enforce building management in an indirect way. He added that the most straightforward way to deal with unauthorized structures was to invoke the relevant provisions in the Buildings Ordinance.

III. Date of next meeting

56. Members agreed that the next meeting would be held on 2 March 2000 at 10.45 am.

57. The meeting ended at 4.35 pm.

Legislative Council Secretariat

31 March 2000