

立法會
Legislative Council

LC Paper No. CB(1)1358/02-03
(These minutes have been seen
by the Administration)

Ref : CB1/BC/3/02

Bills Committee on Land Titles Bill

**Minutes of first meeting held on
Wednesday, 19 March 2003 at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon Albert HO Chun-yan (Deputy Chairman)
Hon Andrew WONG Wang-fat, JP
Hon Miriam LAU Kin-yee, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon WONG Sing-chi
- Members absent** : Hon Albert CHAN Wai-yip
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP
- Public officers attending** : Mr Michael M Y SUEN
Secretary for Housing, Planning and Lands
- Miss CHEUNG Siu-hing
Deputy Secretary for Housing, Planning and Lands
(Planning and Lands) 2
- Mr Kim SALKELD
Land Registrar

Mr Parrish NG
Principal Assistant Secretary for Housing, Planning
and Lands (Planning and Lands)3

Mrs Alice LEE
Registry Manager

Ms Monica LO
Senior Solicitor/Title Registration
Land Registry

Mr Geoffrey FOX
Senior Assistant Law Draftsman
Department of Justice

Clerk in attendance : Miss Salumi CHAN
Chief Assistant Secretary (1)5

Staff in attendance : Mr KAU Kin-wah
Assistant Legal Adviser 6

Mrs Queenie YU
Senior Assistant Secretary (1)6

Action

I. Election of Chairman and Deputy Chairman

Ms Margaret NG was elected Chairman of the Bills Committee and Mr Albert HO Chun-yan was elected Deputy Chairman of the Bills Committee.

II. Meeting with the Administration

(LC Paper No. CB(3)210/02-03	—	The Bill
Ref: HPLB(B) 76/85/08(02) Pt 55	—	The Legislative Council Brief issued by the Housing, Planning and Lands Bureau
LC Paper No. LS 27/02-03	—	The Legal Service Division Report
LC Paper No. CB(1)1143/02-03(01)	—	Background brief prepared by the Legislative Council Secretariat)

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).
Follow-up actions to be taken by the Administration

- Admin 3. At the request of the Bills Committee, the Administration agreed to provide the following information to facilitate the Bills Committee's scrutiny of the Bill-

Information to be provided before the second Bills Committee meeting on 8 April 2003

- (a) To provide a table comparing the main features, merits and demerits of the existing deeds registration system (DRS) with those of the proposed land title registration system (LTRS); to highlight the major differences between the two systems, and give an overview of how the two systems could be operated in parallel after the enactment of the Land Titles Ordinance;
- (b) To provide flow charts illustrating the procedures for-
 - (i) registration of property transactions under the existing DRS;
 - (ii) registration of property transaction upon first sale of a property after the implementation of LTRS; and
 - (iii) registration of subsequent property transactions of the property mentioned in item (ii) above under the new LTRS,including the procedures for registration of consent cautions and non-consent cautions, and the procedures for lodging appeals against decisions made by the Land Registrar;

Information to be provided before the third Bills Committee meeting on 23 April 2003

- (c) To provide a paper on the proposed amount of indemnity under clause 83 of the Bill, covering the following aspects-
 - (i) justifications of the Administration's view that its proposal to cap the indemnity in fraud cases would not contravene the Basic Law;
 - (ii) whether the proposed cap was to be applied to a property or a lot, with examples to illustrate the different scenarios under clause 83;
 - (iii) the views expressed by the concerned parties in previous consultation exercises on the Administration's proposal to cap the indemnity in fraud cases and the Administration's response to their views; and
 - (iv) whether other countries capped the indemnity under their LTRS and if they did, whether the cap only applied to fraud cases;

Other information

- (d) To provide a comparison of the proposed LTRS with the LTRS implemented in other countries, highlighting the major differences and covering the following aspects of the indemnity scheme -

- (i) the upper limit for each claim, if any;
 - (ii) the types of losses eligible for indemnity in the scheme;
 - (iii) how the indemnity scheme was financed, i.e. whether it was self-financing and funded by users of the LTRS through levy; and
 - (iv) the procedures for claiming indemnity and parties responsible for the indemnity payment;
- (e) To provide a paper to explain about the requirement under clause 12 of the Bill that an application for first registration of land should be accompanied by a certificate of good title, and the liability of a solicitor in signing such a certificate;
- (f) To advise how cases involving one of the following items could be dealt with under the proposed LTRS -
- (i) uncertainty or defects in the title of a property;
 - (ii) loss of land deeds or block Government lease;
 - (iii) unclear land boundaries (e.g. lands in adjoining lots);
 - (iv) cases of adverse possession involving legal proceedings;
- (g) To provide justifications for the additional recurrent expenditure of \$13 million per annum projected for a net creation of 13 posts for the implementation of the LTRS, including the reasons why the work involved could not be absorbed by existing staff of the Land Registry; to provide information on the rank of the 13 posts.

(Post-meeting note: The information provided by the Administration in respect of paragraph 3(a) and (b) above was issued to members vide LC Paper No. CB(1)1357/02-03 on 2 April 2003.)

Public consultation

4. In response to the Chairman's enquiry, the Administration advised that general public consultation had not been conducted on the legislative proposals contained in the Land Titles Bill but major stakeholders had been consulted. Given the significant implications of the Bill, the Bills Committee considered it necessary to consult the public on the Bill. As agreed by the Bills Committee, the Clerk:

- (a) would arrange for the invitation of public views by issuing a press release, placing advertisements in the South China Morning Post, Ming Pao and Apple Daily, and uploading an invitation note on the Website of the Legislative Council (LegCo);
- (b) would invite the 18 District Councils to give views on the Bill; and
- (c) would invite those organizations which had provided written submissions

to the Bills Committee formed to scrutinize the Land Titles Bill introduced into LegCo in 1994 to give views on the current Bill.

(Post-meeting note: The press release was issued, advertisements placed in the three newspapers and invitation note uploaded on the LegCo Website on 20 March 2003. Letters were issued to the 18 District Councils and relevant organizations on the same day.)

Meeting with deputations

5. The Bills Committee agreed that a three-hour meeting be scheduled for Monday, 12 May 2003 from 2:30 pm to 5:30 pm for meeting with deputations.

Date of next two meetings

6. The Bills Committee agreed that the second and third meetings be held on Tuesday, 8 April 2003 at 10:45 am and Wednesday, 23 April 2003 at 8:30 am respectively.

Work plan

7. To facilitate the Bills Committee to scrutinize the Bill in an orderly and efficient way, the Chairman would meet with the Administration with a view to preparing a work plan for the Bills Committee's consideration at the next meeting.

(Post-meeting note: The meeting between the Chairman and the Administration was held on 2 April 2003. The revised work plan provided by the Administration was issued to members vide LC Paper No. CB(1)1357/02-03(04) on 4 April 2003.)

III. Any other business

8. There being no other business, the meeting ended at 10:00 am.

Council Business Division 1
Legislative Council Secretariat
4 April 2003

Appendix

**Proceedings of the first meeting of the
Bills Committee on Land Titles Bill
on Wednesday, 19 March 2003 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000103	Mr Albert HO Mr Andrew WONG Ms Margaret NG	Election of Chairman	
000104-000515	Chairman	Opening remarks	
000516-000856	Administration	Briefing by the Administration	
000857-000953	Chairman Mr Albert HO	Election of Deputy Chairman	
000954-001321	Mr Albert HO Chairman Administration	Information to be provided by the Administration to facilitate the Bills Committee's scrutiny of the Bill	Administration to provide the required information under paragraph 3(a), 3(b) and 3(d) of the minutes
001322-002514	Mr Albert HO Chairman Administration	(a) Registration of properties in new multi-storey buildings (Clause 12(1)(a)(i)) (b) Voluntary application for registration by owners (Clause 12(1)(b)) (c) Source of finance for the indemnity scheme and recovery of indemnity paid by the Government (Clause 86)	
002515-003218	Chairman Mr Abraham SHEK Administration ALA6	(a) Justifications of the Administration's proposal to cap the indemnity in fraud cases and whether the proposal would	Administration to provide the required information under paragraph 3(c)(i)

Time marker	Speaker	Subject(s)	Action Required
		contravene the Basic Law (b) Protection for owners of properties valued over the proposed cap of \$30 million for each indemnity claim (Clauses 82 and 83)	and 3(c)(iii) of the minutes
003219-003850	Chairman Ms Miriam LAU Administration	(a) Comparison of the scope of the indemnity scheme under the proposed LTRS with that of the LTRS implemented in other countries (Clause 82(1)) (b) Financing of the proposed indemnity scheme and practices in other countries in this respect (c) Issue of a certificate of good title by solicitors and the liability of solicitors in signing such a certificate (Clause 12)	Administration to provide the required information under paragraph 3(c)(iv), 3(d)(i) to (iii), and 3(e) of the minutes
003851-004810	Chairman Dr TANG Siu-tong Administration	(a) Justifications of the Administration's proposal to cap the indemnity in fraud cases (b) Whether the proposed cap was to be applied to a property or a lot (Clause 83) (c) Parties responsible for making indemnity payment if the loss was due to negligence of Land Registry staff (d) Guarantee and determination of land boundaries (Clauses 19 and 92)	Administration to provide the required information under paragraph 3(c)(ii) and 3(d)(iv) of the minutes
004811-005442	Chairman Mr Andrew WONG Administration	How cases involving loss of land deeds or block Government lease could be dealt with under the proposed LTRS	Administration to provide the required information under paragraph 3(f)(ii) of the minutes
005443-005543	Chairman Mr Abraham SHEK	Justifications for the additional recurrent expenditure of \$13 million	Administration to provide the required

Time marker	Speaker	Subject(s)	Action Required
	Administration	per annum projected for a net creation of 13 posts for the implementation of the proposed LTRS	information under paragraph 3(g) of the minutes
005544-010447	Chairman Mr Albert HO Administration	(a) Registration of consent cautions and non-consent cautions (Clause 70) (b) Appeals against decisions made by the Land Registrar (Clause 89) (c) Overview of how the DRS and LTRS could be operated in parallel after the enactment of the Land Titles Ordinance	Administration to provide the required information under paragraph 3(a) and 3(b) of the minutes
010448-010600	Chairman Mr Abraham SHEK Administration	How cases involving uncertainty or defects in the title of a property could be dealt with under the proposed LTRS	Administration to provide the required information under paragraph 3(f)(i) of the minutes
010601-010734	Chairman Mr Andrew WONG Administration	How cases involving unclear land boundaries could be dealt with under the proposed LTRS	Administration to provide the required information under paragraph 3(f)(iii) of the minutes
010735-010940	Chairman Mr Albert HO Administration	(a) How cases of adverse possession involving legal proceedings could be dealt with under the proposed LTRS (b) Overriding interests (Clause 24)	Administration to provide the required information under paragraph 3(f)(iv) of the minutes
010941-012723	Chairman Administration Clerk Dr TANG Siu-tong Mr Abraham SHEK Mr Albert HO Mr Andrew WONG	(a) Summary of the information to be provided by the Administration in phases (b) Proposed programme of the issues to be considered by the Bills Committee (c) Consultation with the public and	

Time marker	Speaker	Subject(s)	Action Required
		concerned parties (d) Date for meeting with deputations (e) Date of the next two meetings (f) Chairman's meeting with the Administration before the next meeting	

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4 April 2003