

立法會
Legislative Council

LC Paper No. CB(1)1568/02-03
(These minutes have been seen
by the Administration)

Ref : CB1/BC/3/02

Bills Committee on Land Titles Bill

**Minutes of third meeting held on
Wednesday, 23 April 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 Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
- Member absent** : Hon Audrey EU Yuet-mee, SC, JP
- Public officers attending** : 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
Land Registry

Ms May LEE
Assistant Official Receiver
(formerly Deputy Principal Solicitor (Land Registry))

Ms Monica LO
Senior Solicitor/Title Registration
Land Registry

Mr Geoffrey FOX
Senior Assistant Law Draftsman
Department of Justice

Ms Rayne CHAI
Government Counsel
Department of Justice

Mr Denis LI
Assistant Secretary (Planning and Lands) (Buildings)³
Housing, Planning and Lands Bureau

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. Confirmation of minutes of meeting**
(LC Paper No. CB(1)1465/02-03 — Minutes of second meeting held on
8 April 2003)

The minutes of the second meeting held on 8 April 2003 were confirmed.

II. Meeting with the Administration

- (LC Paper No. CB(1)1464/02-03(01) — “Follow-up to the second meeting on 8 April 2003” prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)1464/02-03(02) — Paper provided by the Administration on “Application of Land Titles Bill”
- LC Paper No. CB(1)1464/02-03(03) — Paper provided by the Administration on “Land Registry’s Operation”
- LC Paper No. CB(1)1464/02-03(04) — Paper provided by the Administration on “The Conversion Mechanism”
- LC Paper No. CB(1)1464/02-03(05) — Paper provided by the Administration on “Comparison between Proposed Land Title Registration System for Hong Kong and other Jurisdictions”)

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 take the following action-
- (a) To provide a comparison of the matters registrable under the existing deeds registration system and those under the proposed land title registration system. The comparison should cover the following information -
 - (i) examples of each category of the matters registrable under clause 4(a), 4(b), 4(c) or 4(d) of the Land Titles Bill; and
 - (ii) whether building orders, charging orders and petition for maintenance are registrable under the existing and the proposed new systems.
 - (b) To provide a sample of the certificate of good title for the Bills Committee’s reference.
 - (c) On the proposals about equities and unregistered interests set out in paragraph 26(b) of the paper on “The Conversion Mechanism” (LC Paper No. CB(1)1464/02-03(04)) -
 - (i) to elaborate on the proposals and demonstrate how cases of different scenarios would be handled under the proposals, including the case of WONG Chim-ying v. CHENG Kam-wing;

- and
- (ii) to advise on the impact of the proposals on existing common law practice.

Issues for future discussion

4. When deliberating on the paper on “Application of Land Titles Bill” (LC Paper No. CB(1)1464/02-03(02)), some members expressed concern that if there was a mistake during the registration process -

- (a) what would be the effect of the mistake?
- (b) who would be responsible and what would be their respective responsibility?
- (c) who would be compensated and by what means?
- (d) who would be the parties involved in the litigation, if any?

5. The Chairman suggested and members agreed that the issues listed in paragraph 4 above be discussed in detail in due course.

Papers for meetings in May 2003

6. The Bills Committee noted that in accordance with the work plan of the Bills Committee, the Administration would provide papers on the following subjects for the meetings in May:

- (a) Certificate of good title;
- (b) The effect of registration;
- (c) Benefits and safeguards
 - Benefits
 - Rectification
 - Indemnity

7. Given the controversial issues involved in the proposed indemnity scheme, members urged the Administration to provide the relevant paper as early as possible. As the Bills Committee was receiving deputations at its meeting on 12 May, the Chairman requested the Administration to provide the relevant paper by 9 May. The Administration agreed to consider the Chairman’s request.

Admin

Progress of public consultation

8. The Clerk reported that four submissions had been received by the deadline for public submissions on 22 April and three more were expected by 26 April. The Secretariat would check with the relevant organizations on whether they would provide submissions on the Bill and attend the meeting on 12 May.

Date of next meeting

9. The Chairman reminded members that the next meeting of the Bills Committee would be held on Monday, 5 May 2003 at 8:30 am.

III. Any other business

10. There being no other business, the meeting ended at 10:40 am.

Council Business Division 1
Legislative Council Secretariat
2 May 2003

Appendix

**Proceedings of the third meeting of the
Bills Committee on Land Titles Bill
on Wednesday, 23 April 2003 at 8:30 am
in Conference Room A of the Legislative Council Building**

| Time marker | Speaker | Subject(s) | Action Required |
|--------------------|--|---|---|
| 000000-000020 | Chairman | Confirmation of minutes held on 8 April 2003 | |
| 000021-000230 | Chairman | Opening remarks | |
| 000231-001709 | Administration | Briefing by the Administration on the paper on "Application of Land Titles Bill" (LC Paper No. CB(1)1464/02-03(02)) | |
| 001710-003007 | Chairman Dr TANG Siu-tong Administration Mr IP Kwok-him | (a) Application of the Bill on long term leases (b) Definition of long term leases (c) Meaning of "Declaration on the rights in the land" in paragraph 9(c) of the paper on "Application of Land Titles Bill" (d) Matters registrable under clause 4 of the Bill (LC Paper No. CB(1)1464/02-03(02)) | Administration to provide the required information under paragraph 3(a)(i) of the minutes |

| Time marker | Speaker | Subject(s) | Action Required |
|--------------------|---|--|---|
| 003008-005123 | Chairman Ms Miriam LAU Administration | <p>(a) Registration of documents involving conflict or inconsistency between the provisions of the Bill and those of another enactment (Clause 3) and the legal responsibilities of the Land Registry and solicitors concerned</p> <p>(b) Functions, powers and responsibilities of the Land Registrar (Clauses 6, 8, 82(1)(b) and 100(1)(k))</p> <p>(c) Registration of building orders, charging orders and petition of maintenance under the existing deeds registration system (DRS) and the proposed land title registration system (LTRS)</p> <p>(d) Comparison of matters registrable under the existing DRS and the proposed LTRS (Clause 4)</p> <p>(e) Issues for future discussion</p> | <p>Administration to provide the required information under paragraph 3(a)(ii) of the minutes</p> <p>Administration to provide the required information under paragraph 3(a) of the minutes</p> |
| 005124-005545 | Chairman Administration | <p>Briefing by the Administration on the paper on “Land Registry’s Operation”</p> <p>(LC Paper No. CB(1)1464/02-03(03))</p> | |

| Time marker | Speaker | Subject(s) | Action Required |
|--------------------|---|---|------------------------|
| 005546-010014 | Chairman Dr TANG Siu-tong Administration | Keeping of historical documents and public access to such documents (Paragraph 11 of LC Paper No. CB(1)1464/02-03(03)) | |
| 010015-010411 | Chairman Mr IP Kwok-him Administration | Interpretation of “act in good faith” and “not be personally liable in damages” (Paragraph 10 of LC Paper No. CB(1)1464/02-03(03)) | |
| 010412-010753 | Chairman Mr TAM Yiu-chung Administration | Special provision for the interest in land under long term leases (Paragraph 6 of LC Paper No. CB(1)1464/02-03(03)) (Clause 47) | |
| 010754-011055 | Chairman Mr Albert HO Administration | Merits and demerits of keeping historical documents (Paragraph 6 of LC Paper No. CB(1)1464/02-03(03)) (Clause 60) | |
| 011056-011145 | Chairman Ms Miriam LAU Administration ALA6 | Registration of titles for individual units in Robinson Place where the land was granted under long term lease (Paragraph 6 of LC Paper No. CB(1)1464/02-03(03)) | |

| Time marker | Speaker | Subject(s) | Action Required |
|--------------------|---|---|--|
| 011146-013044 | Chairman Administration | Briefing by the Administration on the paper on “The Conversion Mechanism” (LC Paper No. CB(1)1464/02-03(04)) | |
| 013045-014320 | Chairman Mr TAM Yiu-chung Administration | (a) The role and practice of solicitors in checking whether a property was good for registration under the existing DRS and the proposed LTRS (b) Requirements for issuing certificate of good title (c) Effect of certificate of good title (Paragraph 4 of LC Paper No. CB(1)1464/02-03(04)) | Administration to provide the required information under paragraph 3(b) of the minutes |
| 014321-015126 | Chairman Mr IP Kwok-him Administration | Whether properties with title defects could be registered under the LTRS (Paragraph 23 of LC Paper No. CB(1)1464/02-03(04)) | |
| 015127-015914 | Chairman Ms Miriam LAU Administration Mr Albert HO | Proposals about equities and unregistered interests and impact of the proposals on existing common law practice, including the case of WONG Chim-ying v. CHEUNG Kam-wing (Paragraph 26(b) of LC Paper No. CB(1)1464/02-03(04)) | Administration to provide the required information under paragraph 3(c)(i) and 3(c)(ii) of the minutes |
| 015915-015946 | Chairman Mr Abraham SHEK | Paper to be provided by the Administration on the proposed indemnity scheme | |

| Time marker | Speaker | Subject(s) | Action Required |
|--------------------|---|--|------------------------|
| 015947-020018 | Chairman Mr IP Kwok-him Administration | Provision on obligation of Land Registrar to register (Item 72(b) of schedule 2) | |
| 020019-020811 | Chairman Administration Mr Abraham SHEK | Papers to be provided by the Administration for discussion at the meetings in May 2003, including the paper on the proposed indemnity scheme | |
| 020812-020939 | Clerk Chairman | (a) Progress of public consultation (b) Date of next meeting | |

Council Business Division 1
Legislative Council Secretariat
2 May 2003