

立法會
Legislative Council

LC Paper No. CB(1)2370/03-04

(These minutes have been seen
by the Administration)

Ref : CB1/BC/9/02/2

Bills Committee on Buildings (Amendment) Bill 2003

**Minutes of twenty-second meeting held on
Friday, 28 May 2004, at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Cyd HO Sau-lan (Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Andrew WONG Wang-fat, JP
Hon Miriam LAU Kin-yee, JP
Dr Hon TANG Siu-tong, JP
Hon LI Fung-ying, JP
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Hon Margaret NG
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
- Public officers attending** : Ms Olivia NIP
Deputy Secretary for Housing, Planning and Lands
(Planning and Lands)²
- Mr Rick CHAN
Assistant Secretary for Housing, Planning and Lands
(Buildings)¹
- Mr AU Choi-kai
Assistant Director (Support)
Buildings Department

Mr HO Kwok-hung
Chief Building Surveyor (Legal)
Buildings Department

Mr CHENG Kim-fung
Senior Assistant Law Draftsman
Department of Justice

Ms Selina LAU
Government Counsel
Department of Justice

Clerk in attendance : Miss Odelia LEUNG
Chief Council Secretary (1)4

Staff in attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Ms Connie SZETO
Senior Council Secretary (1)4

Action

I. Meeting with the Administration

- (LC Paper No. CB(1)1729/03-04(01) -- Letter dated 5 May 2004 from the Administration about revised fee proposals for inspection and copying of building records
- LC Paper No. CB(1)1923/03-04(01) -- Submission dated 22 May 2004 from The Law Society of Hong Kong
- LC Paper No. CB(1)702/03-04(02) -- Information paper provided by the Administration on warning notice
- LC Paper No. CB(1)1904/03-04(01) -- Submission dated 17 May 2004 from The Hong Kong Construction Association Ltd.
- LC Paper No. CB(1)1949/03-04(01) -- The Administration's response dated 25 May 2004 to The Hong Kong Construction Association Ltd.'s submission

Action

- LC Paper No. CB(1)1717/03-04(04) -- Draft Committee Stage Amendments (CSAs) to the Bill proposed by the Administration
- LC Paper No. CB(1)1747/03-04(01) -- Marked-up copy of the draft CSAs to the Bill prepared by the Legal Service Division
- LC Paper No. CB(3)566/02-03 -- The Buildings (Amendment) Bill 2003)

The Bills Committee deliberated (Index of proceedings attached at the **Appendix**).

II. Any other business

Report to the House Committee

2. Members completed scrutiny of the Bill and agreed to report to the House Committee on 4 June 2004 recommending the resumption of the Second Reading debate on the Bill at the Council meeting on 23 June 2004. Members noted that the deadline for giving notice of Committee Stage amendments would be 12 June 2004.

3. The meeting ended at 9:30 am.

Council Business Division 1
Legislative Council Secretariat
12 July 2004

**Proceedings of the twenty-second meeting of the
Bills Committee on Buildings (Amendment) Bill 2003
on Friday, 28 May 2004, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000123	Chairman	Opening remarks	
000124 - 001255	Administration Ms Miriam LAU Chairman Mr Albert CHAN	<p><u>Submission from The Law Society of Hong Kong (LSHK) on issue and registration of warning notices (WN) (proposed section 24C of the Buildings Ordinance (BO))</u></p> <p>(LC Paper No. CB(1)1923/03-04(01))</p> <p>(a) A member shared LSHK's concerns that WN would be issued against existing minor unauthorized building works (UBW), and registration of WN could affect conveyancing practices and might be used by purchasers as an excuse for backing out of otherwise binding transactions.</p> <p>(b) The Administration's confirmation that under the priority enforcement policy of the Buildings Department, removal orders would be issued against UBWs that were in progress or newly erected or that presented imminent danger to the public. WN would be issued to those not falling within the priority categories but the Administration would adopt a practical approach and would not issue WN against minor UBW, but removal orders would be issued if they posed an imminent danger.</p> <p>(c) The Administration's assurance that an owner would be informed of Building Authority (BA)'s intention to issue a WN and would be given sufficient time to take rectification</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>action before a WN was issued or registered in the Land Registry (LR).</p> <p>(d) The Administration's pledge that BA would inspect the rectification works for the UBW which was subject to a WN within three weeks after notification by the concerned owner. BA would lodge in LR an instrument of satisfaction against the WN if the rectification works were done satisfactorily.</p> <p>(e) Members' emphasis that the Administration should not step up enforcement actions against minor UBWs before enactment of the revised minor works control regime unless the UBWs posed an imminent danger</p>	
001256 - 002956	Ms Miriam LAU Administration Chairman	<p><u>Mistakes in issuance and registration of WN</u></p> <p>(a) Enquiry about liability of BA for mistakes relating to the issue and registration of WN</p> <p>(b) Enquiry about viability for concerned owners of seeking damages in relation to mistakes committed by BA</p> <p>(c) The Administration's advice that owners could appeal against decisions of BA under the mechanism provided in section 44 of BO. The concerned owners might seek civil remedies for mistakes committed by BA.</p>	
002957 - 003627	Mr Albert CHAN Chairman Administration	<p><u>Issuance of WN and serving of removal orders</u></p> <p>(a) A member's view that BA should clearly identify the person(s)</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>responsible for removing the UBW before issuing the WN or removal orders.</p> <p>(b) The Administration's confirmation that amendments to sections 24 and 24C of BO (clauses 29 and 30 of the Bill) would stipulate the person(s) on whom a WN or removal order should be served</p>	
003628 - 004222	<p>Mr Andrew WONG Administration Chairman Ms Audrey EU</p>	<p><u>Mistakes in issuance and registration of WN</u></p> <p>(a) Whether BA would be liable for mistakes in relation to issuance or registration of WN</p> <p>(b) The Administration's advice that concerned owners could seek civil remedies under the common law for damages in this regard</p>	
004223 - 004411	<p>Administration Chairman</p>	<p><u>Clause-by-clause examination of the Bill together with Committee Stage amendments (CSA)</u></p> <p>(a) Clause 74 - fees (Regulation 42 of the Building (Administration) Regulations)</p> <p>Members accepted the proposed CSA</p>	
004412 - 005235	<p>Mr LAU Ping-cheung Administration</p>	<p><u>Clause 79 - emergency vehicular access (EVA) (proposed Regulation 41D of the Building (Planning) Regulations)</u></p> <p>(a) Enquiry about application of the provision</p> <p>(b) The Administration's confirmation that the statutory requirement of EVA would apply to new buildings and that BA could grant exemption under the</p>	

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		circumstances stipulated in Regulation 41D(3). For alteration and addition works to an existing building, if the use of the building remained unchanged, Regulation 41D would not apply.	
005236 - 005335	Chairman Administration	<u>Submission from The Hong Kong Construction Association Ltd. on deletion of the minor works control regime from the Bill</u> (LC Paper Nos. CB(1)1904/03-04(01) & CB(1)1949/03-04(01)) Members noted the submission from the organization and the Administration's response to the submission	
005336 - 005452	Chairman	Report to the House Committee and resumption of the Second Reading debate	