

立法會
Legislative Council

LC Paper No. CB(1)1081/03-04
(These minutes have been seen
by the Administration)

Ref : CB1/BC/12/02/2

**Bills Committee on
Town Planning (Amendment) Bill 2003**

**Minutes of tenth meeting held on
Tuesday, 3 February 2004, at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon Albert HO Chun-yan
Hon Andrew WONG Wang-fat, 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
- Members absent** : Hon LAU Wong-fat, GBS, JP
Hon Emily LAU Wai-hing, JP
Dr Hon TANG Siu-tong, JP
Hon Audrey EU Yuet-mee, SC, JP
- Public officers attending** : Miss Christine CHOW
Principal Assistant Secretary for Housing, Planning
and Lands (Planning and Lands)²
- Ms Betty HO
Assistant Secretary for Housing, Planning and Lands
(Planning and Lands) (Planning)³
- Mr Jimmy LEUNG
Assistant Director of Planning (Technical Services)

Ms Sherman CHAN
Senior Assistant Law Draftsman
Department of Justice

Ms Vicki LEE Yuet-ming
Senior Government Counsel
Department of Justice

Ms Jacinta WOO
Senior Town Planner/Ordinance Review
Planning Department

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

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mr S C TSANG
Senior Council Secretary (1)7

Action

I. Confirmation of minutes

(LC Paper No. CB(1)905/03-04 -- Minutes of ninth meeting on
6 January 2004

The minutes of the ninth meeting held on 6 January 2004 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1)793/03-04(01) -- List of follow-up actions
arising from discussion at the
meeting on 6 January 2004

LC Paper No. CB(1)678/03-04(03) -- The Administration's response
to issues raised at the meeting
on 20 November 2003

LC Paper No. CB(1)809/03-04(01) -- Information paper provided by
the Administration on
"Submission of Further
Information Relating to
Applications for Amendments
of Plans and Planning
Permissions"

LC Paper No. CB(1)858/03-04 -- Statistics on planning

Action

- applications and impacts on meeting time if the applicants or the applicants and "commenters" are allowed to attend Town Planning Board meetings
- LC Paper No. CB(1)54/03-04(01) -- Consolidated response of the Administration to concerns/views raised by organizations (as at 9 October 2003)
- LC Paper No. CB(1)449/03-04(03) -- Updated Administration's response to LC Paper No. CB(1) 54/03-04(01) (as at 27 November 2003)
- LC Paper No. CB(1)358/03-04(03) -- Supplementary information provided by the Administration on major issues raised at the meeting on 23 October 2003
- LC Paper No. CB(1)2520/02-03(01) -- Administration's response to the issue of compensation raised by Heung Yee Kuk at its meeting with LegCo Members on 10 June 2003
- LC Paper No. CB(1)2520/02-03(02) -- Case law in 1996 concerning the ruling of the Court of Appeal that managers of "tso/t'ong were regarded as land owners"
- LC Paper No. CB(1)678/03-04(05) -- Summary of concerns/views raised by organizations (as at 2 January 2004)
- LC Paper No. CB(1)678/03-04(02) -- Concerns/views raised by organizations on liability of managers of a clan, family, or "tsos/tongs" for offences in relation to unauthorized developments (as at 2 January 2004)
- LC Paper No. CB(1)801/03-04 -- List of follow-up actions arising from previous meetings (as at 30 January 2004)
- LC Paper No. CB(1)765/03-04(01) -- Submission from a "tso/t'ong" of 元朗厦村鄉鳳降村

Action

- LC Paper No. CB(1)765/03-04(02) -- Submission from a "tso/t'ong" in Pat Heung area
- LC Paper No. CB(1)799/03-04(01) -- Submission dated 15 January 2004 from the Land and Building Advisory Committee
- LC Paper No. CB(1)799/03-04(02) -- Submission dated 14 January 2004 from The Association of Architectural Practices Ltd.
- LC Paper No. CB(1)799/03-04(03) -- Submission dated 15 January 2004 from the Advisory Council on the Environment
- LC Paper No. CB(1)810/03-04(01) -- Submission dated 14 January 2004 from The Hong Kong Institute of Architects
- LC Paper No. CB(1)810/03-04(02) -- Submission dated 16 January 2004 from The Hong Kong Institute of Surveyors
- LC Paper No. CB(1)810/03-04(03) -- Submission dated 16 January 2004 from World Wide Fund for Nature Hong Kong
- LC Paper No. CB(1)839/03-04(01) -- Submission dated 16 January 2004 from The Hong Kong Institution of Engineers
- LC Paper No. CB(1)839/03-04(02) -- Submission dated 20 January 2004 from The Hong Kong Institute of Planners
- LC Paper No. CB(1)839/03-04(03) -- Submission dated 20 January 2004 from the Town Planning Board
- LC Paper No. CB(1)877/03-04 -- Submission dated 26 January 2004 from The Real Estate Developers Association of Hong Kong
- LC Paper No. CB(1)892/03-04(01) -- Submission dated 28 January 2004 from Civic Exchange)

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

3. The Chairman informed members of Ms Cyd HO's withdrawal from the Bills Committee due to her engagement in the Select Committee to inquire into the handling of the Severe Acute Respiratory Syndrome outbreak by the Government and the Hospital Authority. Members noted Ms HO's withdrawal, which took effect on 27 January 2004 (LC Paper No. CB(1)881/03-04).

4. Members requested the Administration to take the following actions:

Action

CB(1) 678/03-04(03)

- (a) to consider the need and the practicality of expressly providing in the law the size and format of a notice to be posted in the relevant site or published in a local newspaper concerning draft plans, amendments of plans and planning applications. Members considered it important to prescribe effective means to draw the attention of the relevant persons to the draft plans, amendments of plans and planning applications;
- (b) to clarify whether there was any administrative or legal mechanism to enable the Town Planning Board (TPB) to revoke its decision where material information provided by applicants or commenters was subsequently found to be false. If the answer was negative, the Administration should consider the merits of providing such a mechanism. Members were concerned about the absence of safeguards under the present provisions of the Bill to deter the provision of false information by applicants or commenters and nullify the relevant decisions made by TPB;
- (c) to provide a paper to explain the principles underlying the local town planning system. Whether land use or land ownership was the primary consideration in town planning. Whether planning permission ran with the land, the landowners or the applicants. What the order of priority was in so far as the different interests of landowners, applicants and members of the public were concerned. In this connection, the Administration was requested to compare the rights of applicants, landowners and third parties in plan making and planning applications under the existing Town Planning Ordinance and the Bill;
- (d) to advise from the policy and legal points of view whether it was in order to enact retrospective provisions to make past planning applications available for public inspection; and

CB(1) 678/03-04(04)

- (e) to review the merits of providing for third party review concerning planning applications.

Action

III. Any other business

5. Members agreed to hold the next meeting on **Thursday, 19 February 2004, at 10:45 am.**
6. The meeting ended at 12:30 pm.

Council Business Division 1
Legislative Council Secretariat
23 February 2004

**Proceedings of the tenth meeting of the
Bills Committee on Town Planning (Amendment) Bill 2003
on Tuesday, 3 February 2004, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000320	Chairman	Confirmation of minutes of the ninth meeting held on 6 January 2004 Ms Cyd HO's withdrawal from the Bills Committee (LC Paper No. CB(1)881/03-04)	
000321 - 000730	Administration	Briefing on the Administration's response to issues raised at the meeting on 20 November 2003 (LC Paper No. CB(1)678/03-04(03))	
000731 - 002749	Mr Albert HO Mr Albert CHAN Mr Abraham SHEK Mr Andrew WONG Chairman Administration	Inadequacy of the proposed means in the Bill and the use of administrative measures to notify the affected parties of draft plans, amendments of plans and planning applications Need and practicality of expressly providing in the law the size and format of a notice to be posted in the relevant site or published in a local newspaper concerning draft plans, amendments of plans and planning applications. Suggestion to prescribe in law effective means for notification purpose	The Administration to take action under paragraph 4(a) of the minutes
002750 - 004600	Chairman Mr IP Kwok-him Administration	Applicability of section 36 of the Crimes Ordinance (Cap. 200) if applicants made a false declaration or statement in respect of planning applications Clarification on whether there was administrative or legal mechanism to enable the Town Planning Board (TPB) to revoke its decision where material information provided by applicants or commenters was	The Administration to take action under paragraph 4(b) of the minutes

tion

Time marker	Speaker	Subject(s)	Action Required
		<p>subsequently found to be false</p> <p>Concern about the absence of safeguards under the present provisions of the Bill to deter the provision of false information by applicants or commenters and nullify relevant TPB's decisions</p>	
004601 - 005539	Mr IP Kwok-him Chairman Administration	<p>Third party review in respect of planning applications</p> <p>Planning applications systems in the United States of America and the United Kingdom (LC Paper No. CB(1)678/03-04(04))</p>	The Administration to take action under paragraph 4(e) of the minutes
005540 - 010210	Chairman Mr LAU Ping-cheung Mr Andrew WONG Administration	<p>Underlying principles of the town planning system in Hong Kong</p> <p>Members raised concern on the following issues:</p> <p>(a) whether land use or land ownership was the primary consideration in town planning;</p> <p>(b) whether planning permission ran with the land, the landowners or the applicants; and</p> <p>(c) the order of priority in so far as the different interests of landowners, applicants and members of the public were concerned in the plan-making process.</p> <p>Comparison of the rights of applicants, landowners and third parties in plan-making and planning applications under the existing Town Planning Ordinance and the Bill</p>	The Administration to take action under paragraph 4(c) of the minutes
010211 - 010755	Chairman Mr Andrew WONG	Concern on whether and how far unsuccessful planning applications	

tion

Time marker	Speaker	Subject(s)	Action Required
	Mr WONG Sing-chi Administration	were made available for public inspection. Members considered that details of unsuccessful applications should be released to provide meaningful reference. Feasibility of making retrospective provisions to make past planning applications available for public inspection	The Administration to take action under paragraph 4(d) of the minutes
010756 - 012054	Mr Andrew WONG	Need to obtain the consent of the landowners on planning applications in respect of land managed by tsos/tongs in rural area	
012055 - 013559	Administration	Briefing on submission of further information relating to applications for amendments of plans and planning permissions (LC Paper No. CB(1) 809/03-04(01))	
013560 - 013709	Chairman Senior Assistant Legal Adviser 2 Mr Albert HO Administration	Nature of further information submitted to TPB Criteria in determining whether further information constituted material change to applications for amendments of plans and planning permissions and should or should not be accepted	
013710 - 013715	Chairman	Date of next meeting	