

立法會
Legislative Council

LC Paper No. CB(1)1662/03-04
(These minutes have been seen
by the Administration)

Ref : CB1/BC/12/02/2

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

**Minutes of fourteenth meeting held on
Friday, 2 April 2004, at 2:30 pm
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 LAU Wong-fat, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon LAU Ping-cheung

**Public officers
attending** : Miss Christine CHOW
Principal Assistant Secretary for Housing, Planning
and Lands (Planning and Lands)2

Mr Jimmy LEUNG
Assistant Director of Planning (Technical Services)

Ms Sherman CHAN
Senior Assistant Law Draftsman
Department of Justice

Ms Betty HO
Assistant Secretary for Housing, Planning and Lands
(Planning and Lands) (Planning)3

Ms Jacinta WOO
Senior Town Planner/Ordinance Review
Planning Department

Mr Anthony KWAN
Chief Town Planner/Central Enforcement and Prosecution
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)1402/03-04 -- Minutes of twelfth meeting on
8 March 2004)

The minutes of the twelfth meeting held on 8 March 2004 were confirmed.

- II. Meeting with the Administration**
(LC Paper No. CB(1)1415/03-04(01) -- List of follow-up actions
arising from discussion at the
meeting on 18 March 2004
LC Paper No. CB(1)1415/03-04(02) -- Information paper provided by
the Administration on
"Liability of managers of
clans, families or t'ongs for
offences in relation to
unauthorized developments
under the Town Planning
Ordinance"

Action

- LC Paper No. CB(1)1022/03-04(03) -- Consolidated response of the Administration to concerns/ views raised by organizations (as at 28 January 2004)
- LC Paper No. CB(1)1209/03-04(02) -- Views of Heung Yee Kuk Councillors raised at meeting with Legislative Council Members on 2 March 2004
- 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 Legislative Council 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)813/03-04(10) -- Information paper provided by the Administration on "Stage Two Amendments to the Town Planning Ordinance"
- LC Paper No. CB(1)1415/03-04(03) -- Extract of minutes of meeting of the Panel on Planning, Lands and Works held on 27 January 2004
- 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/t'ongs" for offences in relation to unauthorized developments (as at 2 January 2004)
- LC Paper No. CB(1)1022/03-04(04) -- Summary of views raised by organizations on the Administration's proposed amendments to the plan-making system under the Town Planning (Amendment) Bill 2003 (as at 16 February 2004)

Action

LC Paper No. CB(1)1415/03-04(04) -- List of follow-up actions arising from previous meetings (as at 30 March 2004)

LC Paper No. CB(1)1420/03-04(01) -- Submission dated 19 March 2004 from The Real Estate Developers Association of Hong Kong)

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

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

Item 23 in CB(1) 1022/03-04(03)

- (a) to clarify whether there were any cases in which the Secretary for Home Affairs replaced a manager of tso/t'ong because of his conviction of offences in relation to unauthorized developments (UD) on the land held by tso/t'ong;
- (b) to explain to tso/t'ong that the proposed deletion of the definition of "land owner" under the Bill would not affect the enforcement actions to be taken by the Director of Planning against UD under the existing practices. The Administration was advised to clearly convey to managers of tso/t'ong their legal liability ;
- (c) to relay to the relevant bureau members' request for expediting the review on the legal status of tso/t'ong and the rights and responsibilities of its managers under the New Territories Ordinance;

Item 26 in CB(1) 1022/03-04(03)

- (d) to confirm whether the development of land held by military organizations such as the People's Liberation Army was subject to the Town Planning Ordinance;

Item 29 in CB(1) 1022/03-04(03)

- (e) to provide a press release on the latest announcement of appointment of members to the Town Planning Board (TPB); and

Action

Item 32 in CB(1) 1022/03-04(03)

(f) to advise the international conservation principles adopted by TPB in the discharge of its functions.

4. Members also requested the Administration to provide outstanding responses to follow-up actions arising from discussion at previous meetings (LC Paper No. CB(1)1415/03-04(04)) and the draft Committee Stage amendments to the Bill for members' consideration before the next meeting.

III. Any other business

5. Members agreed to hold the next meeting on **Thursday, 15 April 2004, at 10:45 pm.**

(Post-meeting note: At the Administration's request and with the concurrence of the Chairman, the meeting scheduled for Thursday, 15 April 2004 would not be held and the next meeting would be held on Tuesday, 20 April 2004 at 10:45 am.)

6. The meeting ended at 4:15 pm.

Council Business Division 1
Legislative Council Secretariat
28 April 2004

**Proceedings of the fourteenth meeting of the
Bills Committee on Town Planning (Amendment) Bill 2003
on Friday, 2 April 2004, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000231	Chairman	Confirmation of minutes of the twelfth meeting held on 8 March 2004 (LC Paper No. CB(1)1402/03-04)	
000232 - 000759	Administration	<p>Briefing on consolidated response of the Administration to concerns/views raised by organizations (as at 28 January 2004) (LC Paper No. CB(1)1022/03-04(03))</p> <p><u>Item 23</u> Justification for the proposal to expressly provide that managers of a clan, family or t'ong should be regarded as land owners to be liable to offences in relation to unauthorized developments (UD)</p> <p>Continuation of enforcement action against UD involving land held by tso/t'ong in accordance with the ruling in the <u>Lam Mei Chai</u> case</p> <p>Need for a fundamental review on the legal status of tso/t'ong and the rights and responsibilities of its managers under the New Territories Ordinance (NTO)</p>	The Administration to take action under paragraph 3(c) of the minutes
000800 - 001019	Administration Mr LAU Wong-fat Dr TANG Siu-tong Mr IP Kwok-him Chairman	<p>Proposal to withdraw the amendment to the definition of "land owner" from the Bill until issues on the status of tso/t'ong and the rights and obligations of its managers had been fully examined by the Administration</p> <p>Members expressed support to the Administration's proposal</p> <p>Concerns raised :</p>	

Time marker	Speaker	Subject(s)	Action Required
		<ul style="list-style-type: none"> - the proposed withdrawal might cause misunderstanding on the legal liability of managers of tso/t'ong and enforcement actions to be taken against UD. - action needed to be taken by the Administration to clarify any possible misunderstanding such as by explaining to tso/t'ong the legal liability of its managers at Heung Yee Kuk meeting . 	<p>The Administration to take action under paragraph 3(b) of the minutes</p>
001020 - 002232	Chairman Administration	<p>Timing for the review on the legal status of tso/t'ong and the rights and responsibilities of its managers under NTO</p> <p>Confirmation that there were prosecutions against UD involving land held by tso/t'ong after the <u>Lam Mei Chai</u> case</p>	
002233 - 003001	Mr WONG Sing-chi Chairman Administration	<p>Concern on whether there were any policies or measures in place to safeguard against misuse of land</p> <p>Invocation of power by Secretary for Home Affairs to replace manager of tso/t'ong because of his conviction of offences in relation to UD on the land held by tso/t'ong</p>	<p>The Administration to take action under paragraph 3(a) of the minutes</p>
003002 - 004412	Mr Andrew WONG Administration Chairman	<p>Legal liability of managers of tso/t'ong if they had taken reasonable steps to comply with the enforcement notice in relation to UD</p>	
004413 - 004654	Chairman Dr TANG Siu-tong Mr Andrew WONG Administration	<p>Possible loopholes on enforcement action against UD before the completion of the review on the legal status of tso/t'ong and the rights and responsibilities of its managers under NTO</p>	

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Time marker	Speaker	Subject(s)	Action Required
		Possibility of the ruling in the <u>Lam Mei Chai</u> case being overturned by the Court of Final Appeal	
004655 - 004722	Administration Chairman	<p><u>Item 24</u> Proposal to enable the Secretary for Housing, Planning and Lands to prescribe fees by regulation to recover the costs for processing applications for amendment of plan, planning permission and amendment of planning permission – noted by members</p> <p><u>Item 25</u> Statutory effect of draft plan – noted by members</p> <p>Enquiry on the concept of “interim development control” in the 2000 Town Planning Bill</p>	
004723 - 005208	Mr Albert CHAN Administration Chairman	<p><u>Item 26</u> Scope of application of the Bill – noted by members</p> <p>Confirmation that planning applications and applications for amendment of plan submitted by Government departments were subject to the same statutory requirements</p>	
005209 - 005506	Administration Chairman	Applicability of the Town Planning Ordinance (TPO) on the development of land held by the military organizations such as the People’s Liberation Army	The Administration to take action under paragraph 3(d) of the minutes

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Time marker	Speaker	Subject(s)	Action Required
005507 - 005641	Administration Chairman	<p><u>Item 27</u> Stages of amendments to TPO</p> <p>Members noted:</p> <ul style="list-style-type: none"> - submission dated 19 March 2004 from the Real Estate Developers Association of Hong Kong on the Stage Two Amendments to TPO (LC Paper No. CB(1) 1420/03-04); and - the Administration's response to the issue of compensation raised by Heung Yee Kuk at its meeting with Legislative Council Members on 10 June 2003 (LC Paper No. CB(1) 2520/02-03(01)). 	
005642 - 005729	Mr Andrew WONG Mr Albert CHAN Chairman	<p>Concern on the need to compensate the landowners concerned on any loss arising from planning restrictions imposed by the Government in the public interests</p> <p>Agreed that compensation issue relating to planning action should be discussed by the Panel on Planning, Lands and Works, if needed.</p>	
005730 - 010334	SALA2 Chairman	<p>Right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property under Article 105 of the Basic Law of the Hong Special Administrative Region Government</p>	
010335 - 011340	Mr Albert CHAN Mr Andrew WONG Chairman Administration	<p><u>Item 28</u> Relationship between the Town Planning Board (TPB) and Government – noted by members</p> <p>Members' concern on the need for</p>	

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Time marker	Speaker	Subject(s)	Action Required
		<p>independent TPB secretariat and availability of funds for engaging independent consultants by TPB Administration's confirmation that TPB could use resources of Planning Department to engage independent consultants if necessary</p> <p>Agreed that relevant issues should be discussed at the Second Stage Amendments to TPO</p>	
011341 - 011609	Administration	<p><u>Item 29</u> Chairmanship of TPB and its subcommittees – noted by members</p> <p>Latest announcement of appointment of members to TPB (press release on the appointment subsequently circulated vide LC Paper No. CB(1)1465/03-04 on 6 April 2004)</p>	The Administration to take action under paragraph 3(e) of the minutes
011610 - 011711	Administration	<p><u>Item 30</u> Function and jurisdiction of TPB – noted by members</p>	
011712 - 011755	Mr Albert CHAN Administration	<p>Clarification on TPB's role in formulating the Government's territorial and metro plans</p> <p>Confirmation of TPB's involvement in the formulation of these plans</p>	
011756 - 012015	Chairman Administration	<p>Measures taken by the Administration in addressing organizations' concern on conservation of the cultural and natural heritage of Hong Kong</p> <p>Noted the consultation currently undertaken by the Home Affairs Bureau on conservation of the built heritage of Hong Kong</p>	
012016 - 012934	Administration Chairman	<p><u>Item 31</u> TPB meetings and related matters –</p>	

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Time marker	Speaker	Subject(s)	Action Required
		noted by members <u>Item 32</u> Improvement in planning process – noted by members	
012935 - 013535	Chairman Administration	Enquiry on the international conservation principles adopted by TPB in the discharge of its function	The Administration to take action under paragraph 3(f) of the minutes
013536 - 013656	Chairman Mr Albert CHAN Mr Andrew WONG Clerk SALA2 Administration	The way forward and date of next meeting	

Council Business Division 1
Legislative Council Secretariat
28 April 2004