

立法會
Legislative Council

LC Paper No. CB(1)1782/03-04
(These minutes have been seen
by the Administration)

Ref : CB1/BC/12/02/2

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

**Minutes of fifteenth meeting held on
Tuesday, 20 April 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 Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Hon Andrew WONG Wang-fat, JP
Hon LAU Wong-fat, GBS, JP
Hon Emily LAU Wai-hing, JP
Dr Hon TANG Siu-tong, JP
Hon WONG Sing-chi
- 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 Vicki LEE Yuet-ming
Senior Government Counsel
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

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)1550/03-04 -- Minutes of thirteenth meeting on
18 March 2004)

The minutes of the thirteenth meeting held on 18 March 2004 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1)1553/03-04(01) -- List of follow-up actions
arising from discussion at the
meeting on 2 April 2004

LC Paper No. CB(1)1553/03-04(02) -- Administration's response to
the list of outstanding follow-
up actions arising from
previous meetings

LC Paper No. CB(1)1553/03-04(03) -- Flow chart showing the
revised plan-making process

LC Paper No. CB(1)1465/03-04(01) -- Government's press release on
the appointment of Town
Planning Board members

LC Paper No. CB(1)1499/03-04(01) -- Draft Committee Stage

Action

	Amendments to Clauses 1 to 12 of the Bill proposed by the Administration
LC Paper No. CB(1)1541/03-04(01)	-- Marked-up copy of the draft Committee Stage Amendments to Clauses 1 to 12 of the Bill prepared by the Legal Service Division
LC Paper No. CB(3)626/02-03	-- The Town Planning (Amendment) Bill 2003
LC Paper No. CB(1)2233/02-03(01)	-- Marked-up copy of the Town Planning (Amendment) Bill 2003)

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

3. Members requested the Administration to take follow-up actions in relation to LC Paper CB(1)1553/03-04(02) as below:

Clause 5, section 2B

- (a) to consider expressly providing in the Bill that businesses relating to statutory procedures could not be transacted by circulation of papers;
- (b) to undertake at the Second Reading Debate on the Bill that only procedural and administrative matters would be transacted by circulation of papers;
- (c) to clarify whether circulation of papers included e-mail;

Clauses 13, 16 and 18, sections 12A, 16 and 17

- (d) to request District Offices and other relevant bodies to conduct periodic check after the posting of a notice by Town Planning Board (TPB) in relation to planning applications and amendment of plans to ensure as far as possible the notice was kept posted during the three-week publication period;
- (e) to undertake at the Second Reading Debate on the Bill that the Administration would conduct periodic check to ensure as far as possible the notice was kept posted;
- (f) to consider devising at the Stage Two Amendment a mechanism to enable TPB to withdraw its decision where material information provided by applicants or commenters was found to be false;

Action

- (g) to consider proposing Committee Stage Amendment (CSA) to the effect that copies of planning applications would be made available to any persons on payment of a prescribed fee; and
- (h) to make available information relating to appeal in respect of planning applications for public inspection and copy on payment of a prescribed fee. Members suggested that this arrangement should be expressly provided in law or put into place by administrative means.

4. At members' request, the Administration undertook to provide the Chinese version of the draft CSAs to Clauses 1 to 12 of the Bill as soon as possible after the meeting.

III. Any other business

- 5. Members agreed to hold the next meeting on **Thursday, 29 April 2004, at 10:45 am.**
- 6. The meeting ended at 12:30 pm.

Council Business Division 1
Legislative Council Secretariat
12 May 2004

**Proceedings of the fifteenth meeting of the
Bills Committee on Town Planning (Amendment) Bill 2003
on Tuesday, 20 April 2004, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000047	Chairman	Confirmation of minutes of the thirteenth meeting held on 18 March 2004 (LC Paper No. CB(1)1550/03-04)	
000048 - 000335	Mr Abraham SHEK Chairman	Confirmation that the submission from The Real Estate Developers Association of Hong Kong was noted by members (LC Paper No. CB(1)1420/03-04(01))	
000336 - 001130	Chairman Mr IP Kwok-him SALA2	Members agreed to postpone discussion on the draft Committee Stage Amendments to Clauses 1 to 12 of the Bill (LC Paper No. CB(1)1499/03-04(01)) pending the provision of the Chinese version by the Administration.	The Administration to take action under paragraph 4 of the minutes
001131 - 001401	Chairman Administration	Briefing on the Administration's response to the list of outstanding follow-up actions arising from previous meetings (LC Paper No. CB(1)1553/03-04(02))	
001402 - 003107	Administration Chairman Mr IP Kwok-him	Clause 3 (section 2(5)(b)) - Members noted revised proposal to allow Town Planning Board (TPB) to delegate its power to the Secretary of TPB or its committee(s) to determine acceptance of further information in relation to applications for amendment of plan, planning permission, amendment to planning permission and review of applications Clause 4 (section 2A(1))	

Time marker	Speaker	Subject(s)	Action Required
		<ul style="list-style-type: none"> - Members noted withdrawal of proposal to allow TPB to delegate its committees powers and functions relating to consideration of review applications under section 17 	
003108 - 003442	Administration Mr Abraham SHEK Mr IP Kwok-him Mr Albert CHAN SALA2	Clause 5 (section 2B) <ul style="list-style-type: none"> - Members supported amendment to the effect that any member of TPB might request TPB Chairman to hold a meeting to consider any business being transacted by circulation of papers Concerns <ul style="list-style-type: none"> - The expression “any business being transacted by circulation of papers” was too broad - Business transacted by circulation of papers should be limited to only procedural and administrative matters - Need for express provision to prohibit business relating to statutory procedure be transacted by circulation of papers - Whether circulation of papers included e-mail 	The Administration to take action under paragraph 3(a) to (c) of the minutes
003443 - 003645	Administration Chairman	Sections 5 and 7 <u>Items (a) & (b)</u> Members noted administrative means to display notice about draft plans and amendments of plans in the district concerned as detailed in the “Existing and Proposed Measures for Publication of Plans and Planning Applications” (LC Paper No. CB(1)1022/03-04(02)).	

Time marker	Speaker	Subject(s)	Action Required
003646 - 004249	Administration Chairman Mr IP Kwok-him	<p>Clauses 7 and 8 (sections 6 to 6D)</p> <p><u>Item (a)</u> Members noted organizations consulted by the Administration on the proposed amendments to the plan-making system</p> <p><u>Item (b)</u> Members supported proposed amendment to allow any person to make representation to the amendment proposed by TPB after the first hearing</p>	
004250 - 004348	Administration Chairman SALA2 Mr Albert CHAN	<p>Clause 12 (section 12(1A)):</p> <ul style="list-style-type: none"> - Members supported the proposal to empower the Chief Executive instead of the Chief Executive in Council to refer an approved plan to TPB for replacement or amendment <p>Members noted SALA's advice that the general power of delegation under Cap. 1 was exercisable to a public officer and not to a body.</p>	
004349 - 011212	Administration Chairman Mr Albert CHAN Mr IP Kwok-him SALA2	<p>Clauses 13, 16 and 18 (Sections 12A, 16 and 17)</p> <p><u>Item (a)</u> Members supported the proposal on requirement for applicants for amendment of plan or for planning permission to either obtain the consent of or notify the manager of tso/t'ong where the land was owned by tso/tong</p> <p>Members noted views of Heung Yee Kuk Councillors raised at meeting with Legislative Council Members on 2 March 2004 (LC Paper No. CB(1)1209/03-04(02))</p>	
011213 - 011252	Administration	<u>Item (b)</u>	

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Time marker	Speaker	Subject(s)	Action Required
	Chairman	Clarification by the Administration that failure of TPB to cause a notice to be posted in respect of a planning application in accordance with section 16(2D) would render the planning decision void for ultra vires	
011253 - 011923	Administration Chairman Mr Albert CHAN Mr IP Kwok-him SALA2	<p><u>Item (c)</u> Statutory requirement of posting a notice by TPB in relation to planning applications and amendment of plans</p> <p>Concern that the notice might not be kept posted during the three-week publication period. Some members suggested that the District Offices and other relevant bodies should conduct periodic checks.</p> <p>The Administration's explanation that it was difficult administratively to ensure the notice was kept posted throughout the three-week period and that other administrative means were available to alert the public</p>	The Administration to take action under paragraph 3(d) & (e) of the minutes
011924 - 012514	Administration Mr Albert CHAN Mr IP Kwok-him	<p><u>Items (d) & (e)</u> Proposals of sending a notice to the Legislative Council (LegCo) Members and District Council (DC) members of the relevant geographical area in respect of planning applications and amendment of plans and making it a standing practice to follow up after the notice had been sent</p> <p>The Administration noted members' different views on the proposals and confirmed that the notice would also be sent to the relevant Area Committees.</p>	

Time marker	Speaker	Subject(s)	Action Required
012515 - 012832	Administration Chairman	<p><u>Item (f)</u> Improvement to the form of notices to be posted in respect of planning applications in order to attract public attention</p> <p>Members noted the Administration's undertaking to consider their views in finalizing the form and posting arrangement of notice.</p>	
012833 - 013103	Administration Chairman Mr IP Kwok-him Mr Albert CHAN	<p><u>Item (g)</u> Clarification that TPB might withdraw a planning permission under section 40(2)(c) of Cap.1 where material information provided by applicants or commenters was subsequently found to be false</p> <p>The Administration's advice that no precedent case(s) where TPB withdrew a planning decision due to false material information provided by applicants or commenters</p> <p>Members noted that applicants or commenters who provided false information were liable under the Crimes Ordinance (Cap. 200).</p> <p>Members' call for formulation of a mechanism to enable TPB to withdraw its decision where material information provided by applicants or commenters was subsequently found to be false</p>	The Administration to take action under paragraph 3(f) of the minutes
013104 - 013329	Administration Chairman Mr Albert CHAN SALA2	<p><u>Item (h)</u> Right of any person to obtain copies of planning applications, draft plans and amendments of plans on payment of a prescribed fee</p> <p>Members' concern on ability of applicants of planning applications to</p>	

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Time marker	Speaker	Subject(s)	Action Required
		<p>affect the level of fee</p> <p>The Administration's advice that the fee was decided by it</p> <p>Need for an express provision for right of any person to make copy of planning applications</p>	<p>The Administration to take action under paragraph 3(g) of the minutes</p>
013330 - 013842	<p>Administration Chairman Mr LAU Ping-cheung Mr Albert CHAN</p>	<p><u>Item (i)</u> Retrospective provisions to make past planning applications available for public inspection</p> <p>Concern on whether information relating to an appeal in respect of planning application would be made available for public inspection and for copying on payment of a prescribed fee</p>	<p>The Administration to take action under paragraph 3(h) of the minutes</p>
013843 - 013900	Chairman	Date of next meeting	