

立法會
Legislative Council

LC Paper No. CB(1)2358/03-04
(These minutes have been seen
by the Administration)

Ref : CB1/BC/12/02/2

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

**Minutes of twentieth meeting held on
Tuesday, 25 May 2004, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
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 Abraham SHEK Lai-him, 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 Albert HO Chun-yan
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 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)1915/03-04 -- Minutes of seventeenth meeting
on 4 May 2004)

The minutes of the seventeenth meeting held on 4 May 2004 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1)1914/03-04(01) -- List of follow-up actions
arising from discussion at the
meeting on 20 May 2004

LC Paper No. CB(1)1914/03-04(02) -- Information paper provided by
the Administration on
justifications of the proposed
new section 23(9A) on
elements of proof of the
prosecution

LC Paper No. CB(1)1829/03-04(01) -- Administration's response to
the Bills Committee's
suggestion of expressly

Action

- providing in law that the meetings held by the Town Planning Board to hear representation be open to the public
- LC Paper No. CB(1)1914/03-04(03) -- Draft Committee Stage Amendments (CSAs) to Clauses 19 to 28 of the Bill proposed by the Administration
- LC Paper No. CB(1)1914/03-04(04) -- Marked-up copy of the draft CSAs to Clauses 19 to 28 of the Bill prepared by the Legal Service Division
- LC Paper No. CB(1)1725/03-04(01) -- Draft CSAs to Clauses 13 to 18 of the Bill proposed by the Administration
- LC Paper No. CB(1)1781/03-04(02) -- Marked-up copy of the draft CSAs to Clauses 13 to 18 of the Bill prepared by the Legal Service Division
- LC Paper No. CB(1)1499/03-04(01) -- Draft CSAs to Clauses 1 to 12 of the Bill proposed by the Administration
- LC Paper No. CB(1)1689/03-04(01) -- Revised draft CSAs to Clause 5 of the Bill proposed by the Administration
- LC Paper No. CB(1)1541/03-04(01) -- Marked-up copy of the draft CSAs 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)

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

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

Clause 14 section 14

- (a) to revise the provision to reflect that the fees charged were in relation to the costs incurred by the Town Planning Board (TPB) and the Government in processing applications under sections 12A(3)(c), 16(2)(c) and 16A(3)(b) and not other costs;

Action

Clause 16 section 16

Subsection (2)

- (b) to revise subsection (2)(a) to expressly provide that consent was obtained or notification was given within a reasonable time. The Administration undertook to consult the trade in determining the meaning of "reasonable time" and specify such in the Codes of Practice/guidelines;
- (c) to provide a sample of form referred to in subsection (2)(b);

Subsection (2D)

- (d) to move a Committee Stage Amendment (CSA) to subsection (2D)(b) to the effect that a notice would be published in two local Chinese newspapers and one English newspaper;

Subsection (2EA)

- (e) to delete the subsection;

Subsection (3)

- (f) to revise the provision to expressly require that TPB should consider the application at a meeting;

Subsection (8)

- (g) to review the definition of "current land owner" to remove uncertainty about legal title;

Clause 17 section 16A

Subsections (12) and (13)

- (h) to consider revising the procedure for determining Class A and Class B amendments. The Chairman was concerned about the absence of a mechanism for participation by both LegCo and the community;

Action

Clause 18 section 17

Subsection (2B)

- (i) to move a CSA to subsection (2B)(b) to provide that a notice would be published in two local Chinese newspapers and one English newspaper;

Subsection (2CA)

- (j) to delete the subsection;

Clause 19 section 22

Subsection (1)

- (k) to consider expressly stipulating the conditions under which the power of inspection of the Planning Authority (PA) could be invoked;

Subsection (7)

- (l) to consider expressly naming persons from whom PA might require the provision of information;
- (m) to advise what kinds of information which might be required by PA; and
- (n) to confirm that the Bill of Rights Ordinance would protect providers of information from self-incrimination.

III. Any other business

4. Members agreed to hold the next meeting on **Monday, 31 May 2004, at 10:45 am.**

5. The meeting ended at 5:30 pm.

**Proceedings of the twentieth meeting of the
Bills Committee on Town Planning (Amendment) Bill 2003
on Tuesday, 25 May 2004, at 2:30 pm
in Conference Room A of the Legislative Council Building**

| Time marker | Speaker | Subject(s) | Action Required |
|-----------------|---|--|-----------------|
| 000000 - 000156 | Chairman | Confirmation of minutes of the seventeenth meeting held on 4 May 2004 (LC Paper No. CB(1)1915/03-04) | |
| 000157 - 000813 | Chairman Administration | LC Paper No. CB(1)1781/03-04(02) <u>Clause 14 (section 14)</u> Confirmation that the fees prescribed under subsection (2) was calculated on unit cost basis and there would be no cross subsidy of government applications by non-government applications Administration's proposed amendment to subsection (5) by adding the expression "and for the purposes of subsection (3)(a), any expenditure incurred, or likely to be incurred, whether by the Board or the Government, in relation to any application made under sections 12A(1), 16(1) and 16A(2) by any such Government department shall be disregarded" (LC Paper No. CB(1) 1960/03-04(01)). | |
| 00814 - 001855 | Mr Albert CHAN Administration Chairman SALA2 | Clarification that fees charged under subsection (5) would not include costs incurred arising from applications for a review of the decisions of the Town Planning Board (TPB) under section 17 and appeals on a review under section 17B | |

| Time marker | Speaker | Subject(s) | Action Required |
|-----------------|--|--|---|
| | | <p>Concern about the expression "shall not be limited by reference to the amount of administrative or other costs incurred, or likely to be incurred ..." in section 14(3)(b) which was considered too broad. Administration's explanation that the existing drafting was in line with similar provisions in other ordinances.</p> | |
| 001856 - 002943 | Ms Audrey EU Chairman Administration | <p>Concern that the fees prescribed under subsection (2) should be made known to the public. The Administration's advice that a scale of fees was currently under preparation and would be released to the public when ready.</p> <p>Feasibility of providing for positive vetting of regulation made to prescribe fees under section 14(2)</p> | The Administration to take action under paragraph 3(a) of the minutes |
| 002944 - 003922 | Administration Chairman | <p><u>Clause 15 (section 15)</u></p> <p>Noted by members</p> | |
| 003923 - 010715 | Administration Dr TANG Siu-tong Chairman Ms Audrey EU Mr Abraham SHEK SALA2 | <p><u>Clause 16 (section 16)</u></p> <p><i>Subsection (1)</i></p> <p>Noted by members</p> <p><i>Subsection (2)(a)</i></p> <p>Need to expressly provide that consent was obtained or notification was given within a reasonable time. The Administration would determine the meaning of "reasonable time" in consultation with the trade and specify it in the TPB's Codes of</p> | The Administration to take action under paragraph 3(b) of the minutes |

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| Time marker | Speaker | Subject(s) | Action Required |
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| | | <p>Practice/guidelines</p> <p><i>Subsection (2)(b)</i></p> <p>Enquiry on the particulars to be included in the form for an application for planning permission</p> <p><i>Subsections (2)(c)</i></p> <p>Noted by members</p> <p><i>Subsections (2A) to (2C)</i></p> <p>CSAs supported by members</p> | <p>The Administration to take action under paragraph 3(c) of the minutes</p> |
| 010716 - 012508 | <p>Ms Emily LAU Chairman Administration Mr Andrew WONG Mr IP Kwok-him</p> | <p><i>Subsection (2D)</i></p> <p>Request that notices concerning applications for planning permission be posted in a prominent position and published in local newspapers</p> <p><i>Subsection (2E)</i></p> <p>CSA supported by members</p> <p><i>Subsection (2EA)</i></p> <p>Agreed to delete the subsection which was considered unnecessary</p> <p><i>Subsections (2F) to (2K)</i></p> <p>CSAs supported by members</p> | <p>The Administration to take action under paragraph 3(d) of the minutes</p> <p>The Administration to take action under paragraph 3(e) of the minutes</p> |
| 012509 - 013459 | Break | | |

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| Time marker | Speaker | Subject(s) | Action Required |
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| 013500 - 013755 | SALA2 Administration | <p><i>Subsection (3)</i></p> <p>Need for TPB to consider an application for planning permission at a meeting</p> <p><i>Subsections (4) to (7)</i></p> <p>Noted by members</p> <p><i>Subsection (8)</i></p> <p>Need to review the definition of “current land owner” to remove uncertainty about the legal title of property</p> | <p>The Administration to take action under paragraph 3(f) of the minutes</p> <p>The Administration to take action under paragraph 3(g) of the minutes</p> |
| 013756 - 014027 | Chairman Administration | <p><u>Clause 17 (section 16A)</u></p> <p><i>Subsections (1) to (11)</i></p> <p>CSAs supported by members</p> | |
| 014028 - 014752 | Administration Ms Emily LAU Chairman SALA2 | <p><i>Subsections (12) and (13)</i></p> <p>Clarification on the procedures for determining Class A and Class B amendments. The Chairman was concerned about the absence of a mechanism for participation by the Legislative Council and the community.</p> | <p>The Administration to take action under paragraph 3(h) of the minutes</p> |
| 014753 - 020118 | Administration Chairman SALA2 | <p><u>Clause 18 (section 17)</u></p> <p><i>Subsections (1) & (2)</i></p> <p>Noted by members</p> <p><i>Subsection (2A)</i></p> <p>Confirmation that subsection (2A) would not be applicable to TPB's decisions under section 16A</p> | |

| Time marker | Speaker | Subject(s) | Action Required |
|-----------------|--|---|--|
| | | <p><i>Subsection (2B)</i></p> <p>Request that notices concerning applications for review of TPB's decisions be posted in a prominent place and published in local newspapers</p> <p><i>Subsection (2C)</i></p> <p>CSA supported by members</p> | <p>The Administration to take action under paragraph 3(i) of the minutes</p> |
| 020119 - 021824 | Administration Chairman | <p><i>Subsection (2CA)</i></p> <p>Agreed to delete the subsection which was considered unnecessary</p> <p><i>Subsections (2D) to (2I) and (3) to (7) (LC Paper No. CB(1)1914/03-04(04))</i></p> <p>CSAs supported by members</p> | <p>The Administration to take action under paragraph 3(j) of the minutes</p> |
| 021825 - 023954 | <p>Ms Emily LAU Administration Chairman SALA2 Mr Albert CHAN Mr WONG sing-chi Mr Andrew WONG Clerk</p> | <p><u>Clause 19 (section 22)</u></p> <p><i>Subsection (1)(aa)</i></p> <p>Conditions under which the power of the Planning Authority (PA) could be invoked for the purpose of ascertaining whether there was an unauthorized development</p> <p>Definition of "unauthorized development" under section 1A</p> <p>Justification for subsection (1)(aa) to cover unauthorized developments in the past</p> <p><i>Subsections (2) to (6)</i></p> <p>CSAs supported by members</p> | <p>The Administration to take action under paragraph 3(k) of the minutes</p> |

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| Time marker | Speaker | Subject(s) | Action Required |
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| 023955 - 025223 | Administration Ms Emily LAU Chairman SALA2 | <p><i>Subsection (7)</i></p> <p>Enquiry on information which might be required by PA and the person who would provide such information. The Administrations advice that PA would normally require the landowner concerned, the existing occupier of the land or operator of the unauthorized development to provide the relevant information.</p> <p>Concern that providers of information would not be self-incriminated.</p> <p>Administration's advice that the Bill of Rights Ordinance protected the providers of information from self-incrimination</p> <p><i>Subsection (8)</i></p> <p>Noted by members</p> | The Administration to take action under paragraphs 3(l) to 3(n) of the minutes |
| 025224 - 025308 | Chairman | Date of next meeting | |