

立法會
Legislative Council

LC Paper No. CB(1)2360/03-04
(These minutes have been seen
by the Administration)

Ref : CB1/BC/12/02/2

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

**Minutes of twenty-second meeting held on
Friday, 4 June 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 Emily LAU Wai-hing, JP
Hon WONG Sing-chi
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Hon LAU Wong-fat, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon IP Kwok-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 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

Miss CHEUK Hau-kwan, Elsa
Senior Town Planner/Prosecution 2
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. Meeting with the Administration

(LC Paper No. CB(1)2024/03-04(01) -- List of follow-up actions arising from discussion at the meeting on 31 May 2004

LC Paper No. CB(1)2024/03-04(02) -- Information paper provided by the Administration on "Notices in relation to applications for amendment of plans and planning permissions"

LC Paper No. CB(1)2024/03-04(03) -- Information paper provided by the Administration on "Submission of draft plans to the Chief Executive in Council for approval"

LC Paper No. CB(1)2016/03-04(02) -- Information paper provided by the Administration on

Action

- "Requirements for submission of representations under Section 6, comments under Section 6A and further representations under 6F"
- LC Paper No. CB(1)1829/03-04(01) -- Administration's response to the Bills Committee's suggestion of expressly 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)2016/03-04(03) -- Further revised draft CSAs to Clause 14 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)

Action

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

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

Clause 20 section 23

- (a) to advise on the legislative intent of subsections (3) and (4). Members were of the view that the notice recipient should only be required to reinstate the land to the permissible uses under the development permission area and not to the conditions specified by the Planning Authority (PA). The present provisions would confer on the PA excessive discretionary power to specify the conditions to which the land should be reinstated;
- (b) to confirm whether there was a revision of fines under subsection (6) in 1995/96;
- (c) to convey members' view to the Department of Justice that the fines imposed for contravention of offences under section 23 should be sufficient to have deterrent effect;
- (d) to consider the need to retain the word "gross" in subsection (7B). Members considered that the standard for gross negligence was too high;
- (e) to propose Committee Stage Amendments to subsection (8A)(b) and new Regulation 6A(b) in Town Planning (Taking Possession and Disposal of Property) Regulation to replace "where" with "if";
- (f) to confirm in writing public access to information referred to in subsection (11);
- (g) to provide a sample of notice concerning unauthorized development;

Clause 21 section 24A

- (h) to review the new provision. Members were concerned that the present drafting only included images of the photographs but not information shown on the photographs. The Administration was also requested to consider whether the photographs should be signed or initialled by an officer at a specified rank or above; and

LC Paper No: CB(1)1829/03-04(01)

Action

- (i) to reconsider whether it should expressly provide in law that meetings of Town Planning Board (TPB) be open to the public. Members raise four options:
 - (i) to provide in law that all meetings of TPB be open to the public;
 - (ii) to provide in law that the hearing part of TPB meetings be open to the public;
 - (iii) to provide in law that all meetings of TPB be open to the public, except where TPB considered it inappropriate to do so on grounds of sensitivity of information, premature release of information or others; and
 - (iv) to use administrative means to adopt either one of the above three options.

II. Any other business

3. Members agreed to hold the next meeting on **Tuesday, 8 June 2004, at 2:30 pm.**

4. The meeting ended at 2:00 pm.

Council Business Division 1
Legislative Council Secretariat
12 July 2004

**Proceedings of the twenty-second meeting of the
Bills Committee on Town Planning (Amendment) Bill 2003
on Friday, 4 June 2004, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 – 000139	Chairman	Opening remarks	
000140 – 000331	Administration Chairman	<p>Clause-by-clause examination of the Bill and examination of Committee Stage Amendments (CSAs) proposed by the Administration (LC Paper No. CB(1)1914/03-04(04))</p> <p><u>Clause 20 (section 23)</u></p> <p><i>Subsection (2A)</i></p> <p>Noted by members</p>	
000332 – 005141	Administration Mr Albert HO Chairman Mr Andrew WONG Ms Audrey EU SALA2	<p><u>Clause 20 (section 23)</u></p> <p><i>Subsections (3) & (4)</i></p> <p>The Administration's advice that notices issued under subsections (1), (2) and (3) during the period from 1990 to March 2004 were 8 724, 44 and 228 respectively.</p> <p>Clarification on the conditions under which notices to reinstate the land under subsections (3) & (4) could be issued</p> <p>Members opined that the notice recipient should only be required to reinstate the land to the permissible uses under the development permission area and not to the conditions specified by the Planning Authority (PA). Members considered that the present provisions would confer the PA with excessive discretionary power to specify the</p>	The Administration to take action under paragraph 2(a) of the minutes

Time marker	Speaker	Subject(s)	Action Required
		conditions under which the land should be reinstated.	
005142 – 005249	Administration Chairman	<i>Subsections (4A), (4B) & (5)</i> Noted by members	
005250 – 010427	Administration Chairman Mr Albert HO	<i>Subsection (6)</i> The Administration's advice that during the period from 1990 to March 2004, there were 605 convictions with an average fine of \$30,000 each for offences committed under section 23 Members considered that the fines imposed for contravention of offences under section 23 should be sufficient to have deterrent effect. Clarification on whether there was a revision of fines under subsection (6) in 1995/96 <i>Subsections (7) & (7A)</i> Noted by members	The Administration to take action under paragraphs 2(b) & (c) of the minutes
010428 – 011028	Administration Mr Albert HO Mr Andrew WONG	<i>Subsection (7B)</i> Members considered that the standard for gross negligence in subsection (7B) was too high.	The Administration to take action under paragraph 2(d) of the minutes
011029 – 012041	Administration Chairman SALA2 Mr Andrew WONG	<i>Subsection (8)</i> Noted by members <i>Subsections (8A)(a) and (b)</i> Clarification on conditions under which subsections (8A)(a) and (b) would be applicable	The Administration to take action under paragraph 2(e) of the minutes

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Time marker	Speaker	Subject(s)	Action Required
		<p><i>Subsection (8B)</i></p> <p>Administration's confirmation that subsection (8B) applied to notices issued under section 23</p>	
012042 - 014230	<p>Administration Mr Albert HO Chairman SALA2 Mr Andrew WONG</p>	<p><i>Subsection (9)</i></p> <p>Clarification on the definition of "existing use" in relation to a development permission area under section 1A of the Town Planning Ordinance</p> <p><i>Subsection (9)(aa)</i></p> <p>Enquiry on conditions under which an unauthorized development (UD) was not considered as a development</p>	
014231 - 020459	<i>Break</i>		
020500 - 021702	<p>Administration Chairman SALA2 Ms Emily LAU</p>	<p><i>Subsection (9A)</i></p> <p>Administration's confirmation that the provisions under subsection (9A) would not contravene the Bill of Rights Ordinance</p> <p><i>Subsection (10)</i></p> <p>Noted by members</p> <p><i>Subsection (11)</i></p> <p>Right of the public to access information referred to in subsection (11)</p> <p>Information contained in a notice concerning UD</p>	<p>The Administration to take action under paragraph 2(f) of the minutes</p> <p>The Administration to take action under paragraph 2(g) of the minutes</p>

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Time marker	Speaker	Subject(s)	Action Required
021703 - 022903	Administration Chairman Mr Albert HO Mr WONG Sing-chi	<p><u>Section 24</u></p> <p>Noted by members</p> <p><u>Clause 21 (section 24A)</u></p> <p>Members were concerned that the present drafting would only consider images of the photographs but not information shown on the photographs as prima facie evidence.</p> <p>Members suggested that the photographs taken should be signed or initialled by an officer at a specified rank or above.</p>	<p>The Administration to take action under paragraph 2(h) of the minutes</p>
022904 - 024121	Administration Ms Emily LAU Chairman SALA2	<p><u>Clause 22 (sections 26A and 27)</u></p> <p>CSA noted by members</p> <p><u>Consequential Amendments</u></p> <p><i>Town Planning (Taking Possession and Disposal of Property) Regulation (Clauses 23 to 25)</i></p> <p>Conditions under which section 6A would be applicable</p> <p><i>Roads (Works, Use and Compensation) Ordinance (Clause 26)</i></p> <p>CSA noted by members</p> <p><i>Urban Renewal Authority Ordinance (Clauses 27 to 28)</i></p> <p>CSA noted by members</p>	<p>The Administration to take action under paragraph 2(e) of the minutes</p>
024122 - 030744	Administration Chairman	<p>Briefing on the Administration's response to the Bills Committee's</p>	

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Time marker	Speaker	Subject(s)	Action Required
	<p>Ms Emily LAU Mr Albert HO Mr Andrew WONG</p>	<p>suggestion of expressly providing in law that the meetings held by TPB to hear representation be open to the public (LC Paper No. CB(1)1829/03-04(01))</p> <p>Members raised the following four options for Administration's consideration:</p> <ul style="list-style-type: none"> (a) to provide in law that all meetings of TPB be open to the public; (b) to provide in law that the hearing part of TPB meetings be open to the public; (c) to provide in law that all meetings of TPB be open to the public, except where TPB considered it inappropriate to do so on grounds of sensitivity of information, premature release of information or others; and (d) to use administrative means to adopt either one of the above three options. 	<p>The Administration to take action under paragraph 2(i) of the minutes</p>
030745 - 071050	<p>Chairman Clerk</p>	Date of next meeting	