

立法會
Legislative Council

LC Paper No. CB(1)2405/03-04
(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-fifth meeting held on
Tuesday, 15 June 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 Emily LAU Wai-hing, JP
Dr Hon TANG Siu-tong, JP
Hon Albert CHAN Wai-yip
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Hon LAU Wong-fat, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon WONG Sing-chi
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. Meeting with the Administration

- (LC Paper No. CB(1)2138/03-04(01) -- List of follow-up actions arising from discussion at the meeting on 10 June 2004
- LC Paper No. CB(1)2136/03-04(01) -- Revised draft Committee Stage Amendments of the Bill provided by the Administration (as at 9 June 2004)
- LC Paper No. CB(1)2136/03-04(02) -- Amended sections of the Bill proposed by the Administration
- LC Paper No. CB(1)2136/03-04(03) -- Administration's response to the list of follow-up actions arising from meetings held on 31 May, 4 and 8 June 2004
- LC Paper No. CB(1)2136/03-04(04) -- Memorandum dated 9 June 2004 from the Complaints Division attaching submissions from "新界西北露天倉大聯盟" and The

Action

Association of the New Territories Open Storage Operators Ltd

LC Paper No. CB(1)2064/03-04(02) -- Administration's response to follow-up actions arising from meetings in April and May 2004)

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

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

Section 2C

- (a) to relay to the Town Planning Board (TPB) some members' view that where TPB decided not to conduct open meetings or parts of meetings, TPB should give reasons for its decision, in particular the relevant subsection of the provision to which the reasons related. The Administration was requested to note that a member had different view and opined that TPB should have the discretion to decide to hold closed meetings where it considered appropriate;

Sections 12A(3) and (5) and sections 16(2)(a) and (2A)

- (b) to report to the Panel on Planning, Lands and Works in due course the meaning of reasonable steps required by TPB in relation to notification to land owners after consulting the stakeholders;
- (c) to consider whether the word "otherwise" in sections 12A(3)(a)(i)(A) and (5)(b)(i) should be deleted;
- (d) to consider whether the words "so notify" in sections 12A(3)(a)(i)(B) and (5)(b)(ii) should be revised to "give notification";

Section 16

- (e) to relay to TPB members' view that there should be consistency in handling planning permission in relation to temporary use of land in the urban area and in the New Territories;

Section 24A

- (f) to provide a paper to confirm the types of information that would be shown on the aerial photographs of land; and

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- (g) to propose Committee Stage Amendment (CSA) to specify the type of photograph referred to in the provision.

II. Any other business

3. Members completed scrutiny of the Bill and agreed that the Bills Committee would make a verbal and written report to the House Committee on 18 and 25 June 2004 respectively recommending the resumption of the Second Reading debate on the Bill at the Council meeting on 7 July 2004. Members noted that the deadline for giving notice of CSAs would be 26 June 2004.

4. The meeting ended at 5:15 pm.

Council Business Division 1
Legislative Council Secretariat
20 July 2004

**Proceedings of the twenty-fifth meeting of the
Bills Committee on Town Planning (Amendment) Bill 2003
on Tuesday, 15 June 2004, at 2:30 pm
in Conference Room A of the Legislative Council Building**

| Time marker | Speaker | Subject(s) | Action Required |
|-----------------|---|---|--|
| 000000 - 000137 | Chairman | Opening remarks | |
| 000138 - 000251 | Administration | Administration's response to the list of follow-up actions arising from meetings held on 31 May, 4 and 8 June 2004 (LC Paper No. CB(1)2136/03-04(03)) and amended sections of the Bill proposed by the Administration (as at 15 June 2004) (LC Paper No. CB(1)2177/03-04(01)) | |
| 000252 - 000725 | Administration Chairman | <p><i>Issues related to the provisions in the Bill</i></p> <p><u>Clause 20 (section 23)</u> Administration's advice that the Chinese translation of "freezing surveys" to be conducted should be amended as "土地利用調查" rather than "凍結人口調查"</p> <p>Administration's confirmation that Committee Stage Amendments (CSAs) would be proposed to replace "where" with "if" in subsection (8A)(b)</p> <p>Administration's responses to other issues noted by members</p> | |
| 000726 - 003022 | Administration Chairman Ms Audrey EU Ms Emily LAU SALA2 Dr TANG Siu-tong | <p><u>Clause 21 (section 24A)</u> Sample of aerial photographs shown to members at the meeting</p> <p>Members' concern on what type of information would be shown on the aerials photographs of land</p> | The Administration to take action under paragraphs 2(f) & (g) of the minutes |

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| Time marker | Speaker | Subject(s) | Action Required |
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| | | SALA's comment that the proposed drafting "any document incorporating an image of a photograph of land" (LC Paper No. CB(1)2177/03-04(01)) might contain information not related to the aerial photographs taken | |
| 003023 - 005635 | Chairman Ms Emily LAU SALA2 Administration Mr Andrew WONG | <p><u>Section 2C</u> Clarification of cases which were considered as "not be in the public interests" under subsection (2)(b)(i)</p> <p>Members' concern that where the Town Planning Board (TPB) decided not to open meetings or parts of meetings, TPB should give reasons for its decisions, in particular, the relevant subsection of the provision to which the reasons related</p> <p>A member considered that TPB should have the discretion to decide to hold closed meetings where it considered appropriate.</p> | The Administration to take action under paragraph 2(a) of the minutes |
| 005636 - 010727 | Administration Chairman Mr IP Kwok-him | <p><i>Issues not directly related to the provisions in the Bill</i></p> <p>Administration's advice that a separate paper be provided for member's reference on procedures adopted by the Planning Authority (PA) in determining the issue of a notice concerning discontinuance of unauthorized development (UD) under section 23(1)</p> <p>Samples of notice concerning UD under section 23(1) noted by members</p> <p>Clarification of the meaning of "discontinuance" of UD</p> | |
| 010728 - 011314 | Administration Chairman | Concern that the fines imposed for contravention of offences under | |

| Time marker | Speaker | Subject(s) | Action Required |
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| | | section 23 should be sufficient to have deterrent effect | |
| 011315 - 011613 | Administration | <p>Administration's advice that the use of the expression "gross negligence" in section 23(7B) be reviewed at a later stage</p> <p>The Administration undertook to provide information on whether the Secretary for Home Affairs (SHA) would take into consideration the conviction of managers of tsos/t'ongs in relation to UD in determining their appointment and removal.</p> | |
| 011614 - 013207 | Administration Chairman SALA2 Mr Albert CHAN Ms Audrey EU Mr IP Kwok-him Ms Emily LAU | <p><u>Section 12A(3)</u> Clarification of the meaning of reasonable steps required by TPB in relation to notification to land owners and different types of mail delivery</p> <p>Members' suggestions:</p> <ul style="list-style-type: none"> - the words "so notify" in sections 12A(3)(a)(i)(B) and (5)(b)(ii) be revised to "give notification"; and - the word "otherwise" in sections 12A(3)(a)(i)(A) and (5)(b)(i) be deleted. | <p>The Administration to take action under paragraph 2(b) of the minutes</p> <p>The Administration to take action under paragraphs 2(c) & (d) of the minutes</p> |
| 013208 - 014836 | Administration Chairman | <p><u>Section 12A(23)</u> Administration's remark that the address of owners in relation to assignment pending registration would not be available in the Land Registry</p> | |
| 014837 - 020202 | Break | | |
| 020203 - 020415 | Chairman | Memorandum dated 9 June 2004 from the Complaints Division attaching submissions from "新界西北露天倉大聯盟" and The Association of the New Territories Open Storage Operators Ltd (LC Paper No. CB(1)2136/03-04(04)) | |

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| Time marker | Speaker | Subject(s) | Action Required |
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| 020416 - 021957 | Administration Chairman Mr Andrew WONG | <p>Explanation on provisions for temporary use of land in "Guidance Notes of TPB on application for permission under section 16 of the Town Planning Ordinance (Cap.131)" (LC Paper No. CB(1)2177/03-04(02))</p> <p>Members' view on the need for consistency in handling planning permission in relation to temporary use of land in the urban area and in the New Territories</p> | The Administration to take action under paragraph 2(e) of the minutes |
| 021958 - 023627 | Chairman Administration Mr Albert CHAN | <p>Availability of grace period to operators of UD to discontinue the UD before prosecution actions be taken by the PA</p> <p>The Administration's advice that the operators of UD served with a notice under section 23 would be given 3 months to discontinue the UD in question. Members also noted that if the operators were able to obtain planning permission, even though the 3-month period had expired, the PA would consider not proceeding with the prosecution.</p> | |
| 023628 - 023910 | Chairman Administration | Report to the House Committee and resumption of the Second Reading debate on the Bill | |