

立法會
Legislative Council

LC Paper No. CB(1) 2348/03-04
(These minutes have been seen
by the Administration)

Ref: CB1/BC/15/02/2

**Bills Committee on
Landlord and Tenant (Consolidation) (Amendment) Bill 2003**

**Minutes of the thirteenth meeting
held on Thursday, 3 June 2004, at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Hon James TO Kun-sun
Hon CHAN Kam-lam, JP
Hon Andrew WONG Wang-fat, JP
Hon Abraham SHEK Lai-him, JP
- Members absent** : Hon HUI Cheung-ching, JP
Hon CHAN Yuen-han, JP
Hon Howard YOUNG, SBS, JP
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
- Public officers attending** : Housing, Planning and Lands Bureau

Mr TAM Wing-pong, JP
Deputy Director (Strategy)

Mr Gilbert KO
Assistant Director (Private Housing)

Mr Donald NG
Senior Administrative Officer (Private Housing)

Department of Justice

Mr John WILSON
Consultant Counsel

Ms Carmen CHU
Senior Government Counsel

Rating and Valuation Department

Mr WONG Chun-shiu, JP
Deputy Commissioner

Mr LO Hing-chung
Assistant Commissioner

Mr CHAN Kwok-fan
Senior Rent Officer

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Mrs Mary TANG
Senior Council Secretary (1)2

I. Meeting with the Administration

- (LC Paper No. CB(1) 2012/03-04(01) -- Submission from a member of public as referred by Duty Roster Members dated 25 May 2004 (Chinese version only)
- LC Paper No. CB(1) 2012/03-04(02) -- List of follow-up actions arising from the discussion on 17 May 2004
- LC Paper No. CB(1) 2012/03-04(03) -- Administration's response to item 2 of LC Paper No. CB(1) 2012/03-04(02)
- LC Paper No. CB(1) 2012/03-04(04) -- Latest version of draft Committee Stage amendments (CSAs) proposed by the Administration

- LC Paper No. CB(1) 2012/03-04(05) -- Draft CSAs to be moved by Hon Howard YOUNG
- LC Paper No. CB(1) 2012/03-04(06) -- Administration's letter to the Chairman regarding Hon James TIEN's proposed CSAs to be moved by Hon Howard YOUNG
- LC Paper No. CB(1) 2012/03-04(07) -- Latest version of draft CSAs to be moved by Hon Albert HO
- LC Paper No. CB(1) 2012/03-04(08) -- Draft CSAs to be moved by Hon James TO
- LC Paper No. CB(1) 2012/03-04(09) -- Draft CSAs to be moved by Hon Fred LI
- LC Paper No. CB(1) 2021/03-04(01) -- Submission from a member of public as referred by Duty Roster Members dated 1 June 2004 (Chinese version only)

The Committee deliberated (Index of proceedings attached at **Annex A**).

2. The Administration was requested to provide past court cases on the award of tenancy rights upon the death of tenants.
3. The meeting ended at 10:20 am.

Council Business Division 1
Legislative Council Secretariat
9 July 2004

**Proceedings of the meeting of the
Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2003
Meeting on Thursday, 3 June 2004, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000543	Chairman	Introductory remarks, reference to submissions received and the Administration's response to item 2 of the list of follow-up actions arising from the discussion on 17 May 2004 (LC Paper Nos. CB(1) 2012/03-04(01), (02) and (03) and 2021/03-04(01))	
000544 - 000676	Administration	Explanation on the new clause 5(2A) which provided that the term "tenancy" as referred to in clause 5(1)(c) and (d) did not include any new tenancy thereby ensuring that the arrangement would not be perpetual (LC Paper No. CB(1) 2012/03-04(04))	
000677 - 000974	ALA1 Chairman Mr James TIEN	Consequential amendments might be needed if the Wing Hang Bank, Limited (Merger) Bill was passed before the amendment Bill	
000975 - 001876	Chairman Mr James TIEN	Mr James TIEN's explanation on the draft Committee Stage amendments (CSAs) to be moved by Mr Howard YOUNG who was out of town - (a) need to retain security of tenure for tenements with rateable value (RV) of less than \$36,000 for three more years to protect low-income tenants; and (b) draft CSAs had yet to be finalized	

Time marker	Speaker	Subject(s)	Action required
001877 - 002776	Administration Mr James TIEN Chairman	Administration's response - (a) unable to comment on Mr Howard YOUNG's CSAs in the absence of a finalized draft; (b) timely provision of the finalized version of CSAs was necessary to facilitate consideration; and (c) elaboration on the consequences of the original version of Mr YOUNG's CSAs as set out in the Administration's letter to the Chairman (LC Paper No. CB(1) 2012/03-04(06))	
002777 - 003159	Mr James TIEN Chairman	Justification for Mr YOUNG's CSAs - (a) the current CSAs differed from Mr Albert HO's CSAs in that the RV threshold was lower, the number of tenements to be covered was less and the duration was limited to three years; and (b) the arrangements as proposed should not be difficult to implement	
003160 - 003745	Mr Abraham SHEK Chairman Administration	Member's request for resumption of Second Reading debate on the Bill on 30 June 2004 Administration's intention to resume Second Reading debate on the Bill on 30 June 2004 but need to discuss members' CSAs in consultation with the affected parties	

Time marker	Speaker	Subject(s)	Action required
003746 - 004149	Mr James TO Administration	Member's comments - (a) Mr YOUNG's CSAs should be provided as soon as possible to facilitate consideration; and (b) dissatisfaction over the Administration's accusations against Mr YOUNG's proposal which merely sought to provide a longer grace period for the benefit of low-income tenants	
004150 - 004439	Mr Albert HO Administration	Explanation on CSAs to be moved by Mr Albert HO which were meant to remove security of tenure by stages and indication of support for Mr YOUNG's CSAs in the event that Mr HO's CSAs were voted down	
004440 - 004816	Mr James TO Chairman Administration	Discussion on Administration's comments on the original version of Mr Howard YOUNG's CSAs (circulated under LC Paper No. CB(1) 2012/03-04(06)) which sought to retain the security of tenure for a period of three years for tenements with RV of \$36,000 and below but did not provide for a transitional arrangement. Mr YOUNG subsequently revised his CSAs (tabled and circulated under LC Paper No. CB(1) 2041/03-04(01)) to require transitional termination notice (TTN) to be given for 36 months for tenements with RV of \$36,000 and below	
004817 - 005303	Mr Andrew WONG Chairman	Mr Howard YOUNG's proposal which provided a longer TTN for low RV tenements was worthy of consideration but not Mr Albert HO's CSAs which provided for partial retention of security of tenure	

Time marker	Speaker	Subject(s)	Action required
005304 - 005347	Mr CHAN Kam-lam	<p>(a) Support the principle of removal of security of tenure at one go and object against partial retention as proposed by Mr Howard YOUNG; and</p> <p>(b) Need to have sight of the finalized version of Mr YOUNG's CSAs before making a decision</p>	
005348 - 005419	Mr James TO	Members of the Democratic Party upheld the need for partial retention of security of tenure which would be subject to review after a few years	
005420 - 005436	Mr Albert HO	Objection against Third Reading of Bill if CSAs proposed by members were all voted down	
005437 - 005559	Mr Andrew WONG	Support for retention of security of tenure but not partial retention as proposed by Mr Albert HO	
005600 - 010027	ALA1 Chairman Mr James TIEN	<p>ALA1's explanation on second version of Mr Howard YOUNG's CSAs and issues to be resolved -</p> <p>(a) how to deal with existing tenancies with fixed terms expiring after 36 months;</p> <p>(b) need to define rateable value of premises, and consider application to sublet and part-let premises; and</p> <p>(c) need to consider whether the specific grounds for repossession, such as self-occupation, would apply during the three-year TTN</p> <p>Mr James TIEN's explanation that the RVs would be based on the valuation list declared in March 2004 and would not be subject to change</p>	

Time marker	Speaker	Subject(s)	Action required
010028 - 010341	ALA1 Chairman Mr James TIEN Administration	Discussion on clause 5C(2)(b) under the original version of Mr Howard YOUNG's CSAs regarding the application of RVs in premises which had not been included in the 2004-05 valuation list	
010342 - 011435	Chairman Administration Mr James TIEN Mr Andrew WONG	<p>Administration's concern about the practical problems associated with Mr Howard YOUNG's CSAs -</p> <p>(a) landlords and tenants who had entered into tenancies before the commencement date but whose premises had not been valued would need to apply to the Rating and Valuation Department (RVD) for individual assessment. It would be unreasonable for them to defer commencement of lease until the RV assessment was known;</p> <p>(b) it would be easier if new tenancies and tenancies of properties completed after the commencement date were exempted from the application of the CSAs as otherwise there might be a bunching effect on RVD;</p> <p>(c) there were problems associated with part-let or sub-let premises as individual assessment was required based on actual area; and</p> <p>(d) there were premises, such as village houses which could be exempted from assessment to rates</p>	

Time marker	Speaker	Subject(s)	Action required
		Mr James TIEN's confirmation that the legislative intent of the CSAs was to protect tenants of existing tenancies. New tenancies and tenancies of properties completed after the commencement date would be exempted.	
011436 - 011535	Chairman Mr James TO	Need for Administration to assist members in refining the drafting of CSAs	
011536 - 011728	Mr Andrew WONG	Need for early provision of CSAs for the Administration's consideration	
011729 - 011938	Administration	<p>(a) Explanation on valuation of part-let premises;</p> <p>(b) Need to add the word "and" between clause 5C(1)(a) and (b) in the original version of LP's CSAs; and</p> <p>(c) Request for early provision of finalized version of Mr Howard YOUNG's CSAs</p>	

Time marker	Speaker	Subject(s)	Action required
011939 - 013100	Chairman Mr James TO Mr Andrew WONG Administration	<p>Discussion on CSAs, regarding the applicability of TTN to persons residing with the tenant at the time of the tenant's death, to be moved by Mr James TO (to any person), Mr Albert HO (to siblings and personal representatives), and Mr Fred LI (to siblings)</p> <p>Administration's response -</p> <p>(a) the proposed CSAs should be simple to administer and would not lead to unforeseeable consequence as they were transitional in nature;</p> <p>(b) Mr Fred LI's CSAs were considered more acceptable compared to the other two as similar provisions were also available in other legislation;</p> <p>(c) the scopes of the CSAs proposed by Mr James TO and Mr Albert HO were too wide and might lead to litigation as a result of difficulties in determining the entitlement; and</p> <p>(d) extension of TTN to three years would increase the size of the problem</p>	
013101 - 013147	Mr James TIEN	<p>(a) Support for Mr Fred LI's CSAs but not Mr James TO's CSAs which were considered too wide in scope; and</p> <p>(b) Need to consider Mr Albert HO's CSAs</p>	

Time marker	Speaker	Subject(s)	Action required
013148 - 013539	Mr CHAN Kam-lam	Member's views - (a) Difficulties in ascertaining whether a person was residing with the tenant at the time of the tenant's death, particularly in the case of multiple claims relating to compensation for redevelopment; and (b) Mr Fred LI's CSAs were easier to implement	
013540 - 013700	Mr Andrew WONG	Difficulties in deciding on entitlement to tenancy rights when there were a number of persons residing with the tenant	
013701 - 014048	Chairman ALA1 Mr James TO Administration Mr Andrew WONG	Order of moving CSAs	
014049 - 014568	Mr Andrew WONG Mr James TO Chairman Administration ALA1	Member's enquiry on past court cases on the award of tenancy rights upon the death of tenant	The Administration to provide past court cases on the award of tenancy rights upon the death of tenant
014569 - 014736	Chairman	Legislative timetable	