

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1050/05-06  
(These minutes have been  
seen by the Administration)

Ref : CB2/BC/8/04

**Bills Committee on  
Building Management (Amendment) Bill 2005**

**Minutes of meeting  
held on Tuesday, 10 January 2006 at 8:30 am  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)  
Hon Albert HO Chun-yan  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk, JP  
Hon Andrew CHENG Kar-foo  
Hon Audrey EU Yuet-mee, SC, JP  
Hon WONG Kwok-hing, MH  
Hon LI Kwok-ying, MH  
Hon Alan LEONG Kah-kit, SC  
Hon Patrick LAU Sau-shing, SBS, JP  
Hon TAM Heung-man
- Members absent** : Hon Margaret NG  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon Abraham SHEK Lai-him, JP  
Hon Albert CHAN Wai-yip  
Hon LEUNG Kwok-hung
- Public Officers attending** : Home Affairs Department  
Mr Isaac CHOW  
Deputy Director of Home Affairs (2)  
Mrs Angelina CHEUNG  
Assistant Director of Home Affairs (4)

Department of Justice

Mr Michael LAM  
Senior Government Counsel

**Clerk in attendance** : Miss Flora TAI  
Chief Council Secretary (2)2

**Staff in attendance** : Mr Stephen LAM  
Assistant Legal Adviser 4

Ms Joanne MAK  
Senior Council Secretary (2)2

---

Action

**I. Confirmation of minutes**

[LC Paper No. CB(2)822/05-06]

The minutes of the meeting held on 15 December 2005 were confirmed.

**II. Meeting with the Administration**

2. The Bills Committee deliberated the Administration's responses [LC Paper No. CB(2)2617/04-05(01)] to the following questions raised by Hon WONG Kwok-hing in his letter dated 22 July 2005 [LC Paper No. CB(2)2617/04-05(06)] –

- (a) questions 4 – 5 regarding appointment of a management committee (MC);
- (b) questions 8 – 9 and 12 – 13 regarding appointment of proxy by owners; and
- (c) questions 1 – 3 regarding opening and maintaining an account for an owners' corporation (OC)

(Index of proceedings at **Annex**).

Action

The right of owners of not less than 5% of the shares to convene an owners' meeting or to make request to the chairman of an MC to convene a general meeting of an OC

---

3. Mr WONG Kwok-hing requested to put on record his concern about abuse by owners in exercising their rights under section 3(1)(c) and under paragraph 1(2) of the Third Schedule to the Building Management Ordinance (BMO). He pointed out that in some cases, the developer or one single owner possessed not less than 5% of the shares and he could, therefore, easily convene an owners' meeting or request the MC chairman to convene a general meeting, as the case might be. Mr WONG was concerned that this would enable the developer or the one single owner to manipulate the appointment of MC, or would create nuisance to owners if the developer or owner frequently requested to convene a general meeting to discuss issues over and over again until proposals put forward by the developer or owner were endorsed at a general meeting.

General duty of the manager of a building to provide assistance to different groups of owners of not less than 5% of the shares in preparing an owners' meeting for the appointment of an MC

---

4. The Administration confirmed that when there were different groups of owners of not less than 5% of the shares of the same building preparing for the holding of an owners' meeting for the appointment of an MC, the building manager had a general duty to provide assistance to the different groups of owners if required. The Administration pointed out that it was very rare to have disputes arising from different groups of owners trying to convene an owners' meeting at different times for the appointment of an MC, and the Home Affairs Department (HAD) would normally persuade different groups of owners to co-ordinate among themselves so that only one owners' meeting would be convened under section 3 of BMO and owners concerned would not get confused.

Admin

5. Some members, however, considered that the actual number of such disputes was not small and they made the following suggestions for consideration by the Administration –

- (a) while it was the right approach for HAD to persuade the different groups of owners to co-ordinate among themselves for the purpose of convening only one owners' meeting for the appointment of an MC under section 3 of BMO, the Administration should consider introducing a mandatory mediation mechanism for dealing with such disputes and as a long-term measure, amending BMO to empower the Administration to take appropriate actions to intervene for resolving such disputes;

Action

- (b) for the purpose of clarity, BMO should be amended to stipulate that the Land Registrar could not issue more than one certificate of registration for an OC in respect of one building as suggested by the Chairman at the last meeting.

Appointment of MC members

6. The Administration confirmed that owners could conduct election of their representatives to be MC members by voting prior to the holding of a general meeting of owners provided that the appointment of the elected representatives to be MC members was endorsed at the general meeting.

Appointment of proxy

Admin

7. Members agreed that the Administration's responses to questions 1 – 7, 10 – 11 and 14 raised by Hon WONG Kwok-hing regarding appointment of proxy by owners would be considered when the Bills Committee discussed the Administration's paper on appointment of proxy [LC Paper No. CB(2)2617/04-05(03)]. The Administration was requested to consider a suggestion that in order to have deterrent effect, HAD should put in place a deposit mechanism for proxy instruments so that when suspected forgery was found, relevant proxy instruments could be used as evidence for the purpose of legal proceedings.

Financial arrangements for OCs and managers

Admin

8. The Administration was requested to consider introducing a penalty clause for the new requirement under the proposed amendments to paragraphs 3 and 4 in the Seventh Schedule to BMO.

Procurement by OCs and building managers

9. The Administration was requested to consider a member's suggestion that building managers should be required to file the original copy of receipt of any procurement of goods and services the cost of which would be charged to OCs.

Regulation of property management companies

10. The Administration briefed members on the current two-stage study on the feasibility of introducing a regulatory scheme for the property management industry as detailed in the Administration's paper [LC Paper No. CB(2)222/05-06(01)]. The Administration reiterated that it would not be feasible to give a timeframe at the present stage as to when a decision would be made. Some members expressed strong views that such a regulatory scheme

Action

Admin

should be put in place in order to better protect owners' interests. The Administration was requested to consider introducing a regulatory scheme under which different levels of regulation would be imposed on property management companies according to their sizes.

Date of next meeting

11. Members noted that the next meeting would be held on 26 January 2006 at 10:45 am.

12. There being no other business, the meeting ended at 10:35 am.

Council Business Division 2  
Legislative Council Secretariat  
7 February 2006

**Proceedings of the Bills Committee on  
Building Management (Amendment) Bill 2005  
on Tuesday, 10 January 2006 at 8:30 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
000000 - 000533	Chairman	Confirmation of minutes of meeting.	
000534 - 001736	Chairman Admin Mr WONG Kwok-hing	<b>Administration's responses to questions raised by Hon WONG Kwok-hing in his letter dated 22 July 2005</b> [LC Paper No. CB(2)2617/04-05(01)]  <u>Questions 4 – 5 on appointment of a management committee (MC)</u>  Concern about abuse by owners in exercising their rights under section 3(1)(c) and under paragraph 1(2) of the Third Schedule to the Building Management Ordinance (BMO)	
001737 - 011920	Mr LI Kwok-ying Chairman Ms Emily LAU Admin Ms Miriam LAU Ms Audrey EU Mr WONG Kwok-hing Mr Albert HO	General duty of the manager of a building to provide assistance to different groups of owners of not less than 5% of the shares in preparing an owners' meeting for the appointment of an MC	<b>Admin to consider members' views and suggestions</b> (Para. 5 of the minutes)
011921 - 013608	Chairman Admin Mr Alan LEONG Mr WONG Kwok-hing	<u>Questions 8 – 9 and 12 – 13 on appointment of proxy by owners</u>  Whether it was allowed under BMO for owners to conduct election of their representatives to be MC members by voting prior to the holding of a general meeting of owners  The power to determine the validity of a questionable proxy instrument  A member's suggestion that in order to have deterrent effect, the Home Affairs Department should put in place a deposit mechanism for proxy instruments so that when suspected forgery was found, relevant proxy instruments could be used as evidence for the purpose of legal proceedings  Problems arising from the requirement that proxy instruments had to be returned within 24 hours before an owners' meeting or a general meeting of owners	<b>Admin to consider a member's suggestion</b> (Para. 7 of the minutes)

Time marker	Speaker	Subjects	Action required
		Whether flexibility should be allowed for owners to alter the statutory format of the proxy instrument	
013609 - 015305	Chairman Admin Mr WONG Kwok-hing Miss CHOY So-yuk Mr Alan LEONG	<p><u>Questions 1 – 3 on opening and maintaining an account for an owners' corporation (OC)</u></p> <p>The need for the Administration to introduce a penalty clause for the new requirement under the proposed amendments to paragraphs 3 and 4 in the Seventh Schedule to BMO.</p> <p>A member's suggestion that building managers should be required to file the original copy of receipt of any procurement of goods and services the cost of which would be charged to OCs.</p>	<p><b>Admin to consider members' suggestions</b> (Paras. 8 &amp; 9 of the minutes)</p>
015306 - 020423	Chairman Admin Mr WONG Kwok-hing Miss CHOY So-yuk	<p><u>Regulation of property management companies</u></p> <p>The Administration's briefing on the current two-stage study on the feasibility of introducing a regulatory scheme for the property management industry as detailed in the Administration's paper [LC Paper No. CB(2)222/05-06(01)], and a suggestion that the Administration should introduce a regulatory scheme under which different levels of regulation would be imposed on property management companies according to their sizes</p>	<p><b>Admin to consider members' views on the need for a regulatory scheme to be introduced for the property management industry</b> (Para. 10 of the minutes)</p>
020424 - 020456	Chairman	Date of next meeting	