

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1375/06-07

(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 Monday, 22 January 2007, 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 Andrew CHENG Kar-foo  
Hon Abraham SHEK Lai-him, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon WONG Kwok-hing, MH  
Hon Alan LEONG Kah-kit, SC  
Prof Hon Patrick LAU Sau-shing, SBS, JP
- Member attending** : Hon Bernard CHAN, GBS, JP
- Members absent** : Hon Margaret NG  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk, JP  
Hon Albert CHAN Wai-yip  
Hon LI Kwok-ying, MH, JP  
Hon LEUNG Kwok-hung  
Hon TAM Heung-man

- 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
- Mr Lawrence PENG  
Senior Assistant Law Draftsman
- The Hong Kong Federation of Insurers
- Mr Peter TAM  
Chief Executive
- Mrs Agnes KOON  
Chairman of the General Insurance Council
- Mr William NG  
Vice-chairman of the Accident Insurance Association
- 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

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Action

**I. Confirmation of minutes**  
[LC Paper No. CB(2)905/06-07]

The minutes of the meeting on 14 December 2006 were confirmed.

Action

**II. Scope of third party risks insurance for owners' corporations (OCs)**  
[LC Paper No. CB(2)638/06-07(01), CB(2)791/06-07(01) and  
CB(2)3140/05-06(01)]

2. The Bills Committee deliberated (index of proceedings attached in **Annex**).

3. The Chairman expressed the view that, if insurance companies were able to provide insurance which covered liabilities that were incurred by the OC as well as the liabilities of individual occupiers in relation to the common parts of the building, an OC should be required to act as an agent and procure, collectively, third party risks insurance to cover the occupiers' liabilities in addition to liabilities incurred by the OC. He considered that a cheaper premium might be charged under such arrangements.

4. Representatives of the Hong Kong Federation of Insurers (the Federation) advised the Bills Committee that, if there were sufficient demands, the insurance industry would be able to provide such insurance, i.e. the third party risks insurance policy procured by an OC could also cover the liabilities of individual occupiers in relation to the common parts of the building. However, it would be difficult to make the risk assessment and the premium was expected to be high especially for buildings which consisted of both residential and commercial parts involving very different types of occupiers. Hon Bernard CHAN pointed out that the present premium charged for the procurement of the third party risks insurance by individuals for their own households and for the common parts of the buildings was not high. Mr CHAN and Mr Jasper TSANG expressed doubt as to whether OCs and occupiers would accept that individual occupiers had to procure the third party risks insurance on a mandatory basis and that owners of the building had to share out the liabilities of the individual occupiers towards the rights of third parties, as the risk incurred by an occupier would be relatively high if there was business operation in his unit.

5. Ms Audrey EU sought the Administration's confirmation as to whether an OC would be liable to the injured third party for the whole damage in the situation that the OC was held jointly and severally responsible for an accident together with an occupier, but the occupier went bankrupt, and the insurance policy of the OC did not cover the liabilities of the individual occupiers. The Administration advised the Bills Committee that, if the court held that an OC, an owner and an occupier were jointly and severally liable to a third party's injury in tort, and, if the court held that the OC had to share the extra burden of damages with the owner in the event of the occupier's insolvency, then the insurance company of the OC would have to pay the OC's share of the damages for the OC up to the insured amount. Therefore, in any event the liability of the OC would be covered by the insurance policy required under section 28 of the Building Management Ordinance (BMO) and the draft Building Management (Third Party Risks Insurance) Regulation.

Action

6. Ms Audrey EU, however, expressed concern that the protection for third parties might be at risk if the court did not hold that the OC had to bear the extra burden of damages, or if the occupier's failure to pay for his share of damage was not due to bankruptcy. The Administration pointed out that if the third party risks insurance policy procured by an OC also covered the liabilities incurred by individual occupiers, the number of claims made under such a policy would inevitably be larger than that under a policy with the narrower scope of coverage as currently proposed, thus resulting in a higher premium to be borne by the OC. The Chairman, however, pointed out that that could be resolved by splitting the third party risks insurance policy into two, one covering the liabilities incurred by the OC and one covering the liabilities of the individual occupiers of the building.

7. Mr Albert HO considered that a comparison on the different premium charged for the third party risks insurance policy procured by an OC with different scope of coverage might be needed to facilitate further deliberation. He was also concerned that OCs might have reservations about the suggestion. The representatives of the Federation responded that extensive consultation with members of the insurance industry would be needed in order to come up with such information.

8. The Chairman concluded that, given the diverse views expressed by members, the Bills Committee would not pursue the suggestion of requiring OCs to procure third party risks insurance which also covered the liabilities of individual occupiers. The Chairman, however, suggested that frontline staff of the Home Affairs Department should advise owners and individual occupiers to consider procuring third party risks insurance collectively. He also suggested that the Administration should explore, in collaboration with the insurance industry, the feasibility of procurement of third party risks insurance by owners of buildings (e.g. old tenement buildings) which had not formed OCs nor engaged the service of property managers.

Admin

Admin

9. Members raised no further comments on the revised section 28 of BMO as set out in Annex A to the Administration's paper.

Resumption of Second Reading debate

10. The Chairman said that the earliest possible date of resumption of the Second Reading debate on the Bill would be 14 March 2007 and, if the Administration intended to resume the Second Reading debate on that date, the Bills Committee would report its deliberations on the Bill to the House Committee on 2 March 2007 and that the deadline for submission of notice to move Committee Stage amendments (CSAs) to the Bill would be 5 March 2007.

Action

11. The Chairman further said that he did not see the need for the Bills Committee to hold further meetings. However, if there were draft CSAs proposed by individual members, he would consider convening a meeting to consider these CSAs if necessary.

12. There being no other business, the meeting ended at 10:30 am.

Council Business Division 2  
Legislative Council Secretariat  
20 March 2007

**Proceedings of the meeting of Bills Committee on  
Building Management (Amendment) Bill 2005  
on Monday, 22 January 2007, at 8:30 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 001937	Chairman	Confirmation of minutes of meeting	
001938 - 014544	Chairman Admin Representatives of the Hong Kong Federation of Insurers Ms Audrey EU Mr Albert HO Hon Bernard CHAN Mr Alan LEONG Ms Jasper TSANG	<ul style="list-style-type: none"> <li>- Discussion on the Chairman's suggestion of requiring the owners' corporation (OC) to procure third party risks insurance which covered liabilities that were incurred by the OC as well as the liabilities of individual occupiers in relation to the common parts of the building</li> <li>- Revised section 28 of the Building Management Ordinance</li> </ul>	
014545 - 015229	Chairman Admin Mr Albert HO	<ul style="list-style-type: none"> <li>- Suggestion of extending the mandatory requirement of procurement of third party risks insurance to the building manager</li> <li>- Legislative timetable and future arrangements</li> </ul>	<b>Admin to follow up the Chairman's suggestions</b> (para. 8 of minutes)
015230 - 015422	Chairman	Date of next meeting	

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Legislative Council Secretariat  
20 March 2007