

立法會
Legislative Council

LC Paper No. CB(2)1269/05-06
(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 Thursday, 26 January 2006 at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Miriam LAU Kin-ye, 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 LI Kwok-ying, MH
Hon Alan LEONG Kah-kit, SC
Hon TAM Heung-man
- Members absent** : Hon Albert HO Chun-yan
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Albert CHAN Wai-yip
Hon LEUNG Kwok-hung
Hon Patrick LAU Sau-shing, SBS, JP
- 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)952/05-06]

The minutes of the meeting held on 4 January 2006 were confirmed.

II. Meeting with the Administration

[LC Paper Nos. CB(2)2617/04-05(01) to (06), CB(2)222/05-06(01) to (03), CB(2)342/05-06(01), CB(2)833/05-06(01) and CB(2)954/05-06(01)]

2. The Bills Committee deliberated the following papers –

- (a) the Administration's responses to questions raised by Hon WONG Kwok-hing in his letter dated 22 July 2005 [LC Paper No. CB(2)2617/04-05(01)] regarding termination of the appointment of the building manager under the deed of mutual covenant (DMC) and personal liabilities of members of a management committee (MC) in respect of a decision made by an owners' corporation (OC); and
- (b) the Administration's responses to matters arising from the meeting on 23 June 2005 [LC Paper No. CB(2)2617/04-05(02)]; and
- (c) paragraphs 1 to 8 of the Administration's responses to matters arising from the meeting on 12 July 2005 regarding appointment of proxy [LC Paper No. CB(2)2617/04-05(03)]

Action

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

Avoidance of formation of more than one OC in a building

3. The Administration informed members that it was discussing with the Department of Justice and the Land Registrar as to whether it was feasible to add a provision to the Building Management Ordinance (BMO) stating that one OC should be formed for one DMC. While the Administration did not object in principle to the inclusion of such a provision, it had to consider the implication on those old buildings which were covered by more than one DMC and had formed more than one OC. The Administration would provide further information once details had been worked out.

Admin

Owners' right to incorporation

4. Members noted that the Administration would discuss with the Hong Kong Association of Property Management Company Limited with a view to issuing a code of practice to tackle the problem that some property management companies had forbidden owners from distributing leaflets to convene an owners' meeting for the appointment of a new MC. The Chairman suggested that apart from administrative measures, the Administration should consider imposing a statutory obligation on a building manager that he had to allow communication among owners on matters relating to the management of their building such as by distribution of leaflets to letterboxes. In this way, an OC could not pass a resolution to require the building manager not to allow owners to undertake such activities or, otherwise, it would breach the statutory obligation of the building manager.

Admin

Adjournment of owners' meeting

5. On the Administration's new proposal of applying the requirement of issuance of notice at least 14 days before the meeting to all adjourned meetings, Ms Miriam LAU considered that serving of at least seven days' notice of an adjourned meeting was sufficient. She, however, agreed that by applying the same requirement in respect of length of notice to be served, the Administration's proposal had the merit that it could facilitate the holding of an adjourned meeting immediately before another owners' meeting arranged afresh for discussion of new agenda items.

6. Members expressed strong reservations about the Administration's new proposal of amending Form 1 and Form 2 of Schedule 1A in the Bill to the effect that the original proxy instruments could not be used at adjourned meetings. They considered that this would create much nuisance to owners concerned. Ms Miriam LAU suggested that consideration should be given to specifying in the proposed proxy instruments that proxies deposited prior to the original meeting would remain valid unless new proxies from the same owners

Action

Admin

had been received. Ms Audrey EU expressed support for Ms LAU's suggestion. The Administration was requested to consider the suggestion.

Admin

7. Mr LI Kwok-ying asked about the legal status of an MC when a majority of its members had resigned and the number of its remaining members was not sufficient to form a quorum for holding a meeting. Members noted that owners could make an application to the Lands Tribunal for the appointment of an administrator so that an owners' meeting could be convened for the appointment of a new MC. The Administration was requested to provide a paper elaborating on –

- (a) the legal status of the MC under the circumstances as described by Mr LI Kwok-ying and the mechanism for the appointment of a new MC for replacement;
- (b) in what capacity individual owners could make an application to the Lands Tribunal for the appointment of a new MC and how the costs incurred should be covered; and
- (c) whether a mechanism for the appointment of co-opted members of an MC was provided under BMO.

Date of next meeting

8. Members noted that the next meeting would be held on Thursday, 9 February 2006 at 10:45 am.

9. There being no other business, the meeting ended at 12:20 pm.

Council Business Division 2
Legislative Council Secretariat
28 February 2006

**Proceedings of the Bills Committee on
Building Management (Amendment) Bill 2005
on Thursday, 26 January 2006 at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
000000-001000	Chairman	<u>Confirmation of minutes of meeting on 4 January 2006</u> [LC Paper No. CB(2)952/05-06]	
001001-001954	Chairman Admin	<u>The Administration's responses to questions raised by Hon WONG Kwok-hing in his letter dated 22 July 2005</u> [LC Paper No. CB(2)2617/04-05(01)]	
001955-005824	Chairman Admin Ms Audrey EU Mrs Selina CHOW Mr LI Kwok-ying	<u>The Administration's responses to matters arising from the meeting on 23 June 2005</u> [LC Paper No. CB(2)2617/04-05(02)] - Avoidance of formation of more than one OC in a building - Owners' right to incorporation	Admin to provide information (para. 3 of the minutes) Admin to consider the Chairman's suggestion (para. 4 of the minutes)
005825-012554	Chairman Admin Mr LI Kwok-ying Ms Miriam LAU	<u>The Administration's responses to matters arising from the meeting on 12 July 2005</u> [LC Paper No. CB(2)2617/04-05(03)] - Adjournment of owners' meeting and appointment of proxy [paragraphs 1 to 8 of LC Paper No. CB(2)2617/04-05(03)] Discussion on the Administration's new proposals of applying the requirement of issuance of notice at least 14 days before the meeting to all adjourned meetings and of amending Form 1 and Form 2 of Schedule 1A in the Bill to the effect that the original proxy instruments could not be used at adjourned meetings.	Admin to consider a member's suggestion (para. 6 of the minutes)

Time marker	Speaker	Subjects	Action required
012555-012742	Chairman Mr LI Kwok-ying Mr WONG Kwok-hing	Concern about the legal status of a management committee (MC) when a majority of its members had resigned and the number of its remaining members was not sufficient to form a quorum for holding a meeting, and the mechanism for the appointment of a new MC for replacement.	Admin to provide information (para. 7 of the minutes)
012743-012845	Chairman	Date of next meeting	

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28 February 2006