

立法會
Legislative Council

LC Paper No. CB(2)2099/05-06

(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, 20 April 2006 at 2:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon CHOY So-yuk, JP
Hon Andrew CHENG Kar-foo
Hon Albert CHAN Wai-yip
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LI Kwok-ying, MH
Hon LEUNG Kwok-hung
Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** : Hon Albert HO Chun-yan
Hon Margaret NG
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon Alan LEONG Kah-kit, SC
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

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)1748/05-06]

The minutes of the meeting on 23 March 2006 were confirmed.

II. Meeting with the Administration

2. The Bills Committee deliberated –

- (a) paragraphs 18 to 22 of the Administration’s paper on “Matters arising from meetings on 4 and 10 October 2005” [LC Paper No. CB(2)222/05-06(01)];
- (b) the Administration’s paper on “Administration’s response to issues raised at the meeting on 4 January 2006” [LC Paper No. CB(2)833/05-06(01)]; and
- (c) the Administration’s paper on “Borrowing power of owners’ corporations (OCs)”[LC Paper No. CB(2)1049/05-06(01)].

Index of proceedings is at **Annex**.

Action

Libel cases

3. Members did not raise objection to the Administration's decision that it would not provide for privilege which specifically applied to libel cases arising from discussion of affairs of OCs.

Regulation of property management companies

4. The Chairman reminded members that the Bills Committee had previously agreed not to pursue the issue in the current legislative exercise.

Appointment procedures of a management committee (MC)

5. In response to some members' view that owners should be allowed to flexibly follow provisions in the deed of mutual covenant (DMC) regarding the composition of an MC, the Administration proposed to amend clause 23(d)(i) and clause 23(g)(ii), in the English text, so that at a meeting of owners, the owners shall appoint, from amongst the owners instead of "from amongst themselves", the members of the MC. Members noted that the proposed amendments would make it absolutely clear that so long as the appointment of members of an MC was endorsed at a general meeting of owners, such appointments would be valid. Members also noted that it would also be permissible under the Building Management Ordinance (BMO) for owners to use whatever ways to allocate the posts in their MC, as long as these ways were not prohibited by the Ordinance and the final appointment of each member was approved at the owners' meeting.

6. All members present, except Mr WONG Kwok-hing, raised no objection to the amendments proposed by the Administration. Mr WONG Kwok-hing remained of the view that the Administration should not impose mandatory requirements across the board so that MCs which had been formed by owners in accordance with provisions in their respective DMCs could remain valid if the owners concerned so wished.

7. The Chairman remarked that he did not see that there were any particular difficulties which would prevent the existing MCs which had been formed by owners in accordance with provisions in their respective DMCs from following the proposed statutory requirements. He, however, suggested that the Administration should provide the judgment of *Siu Siu Hing v Land Registrar* (HCAL 77/2000) to the Law Society of Hong Kong and all property management companies and enlist their assistance to ensure that no more MC would be appointed/re-appointed in accordance with a DMC under the existing section 3(2)(a) of BMO. The Administration agreed to follow up.

Action

Borrowing power of OCs

Admin 8. Members in general appreciated the merits of the proposal which could facilitate OCs to undertake timely implementation of the works required under statutory directions, notices or orders relating to the demolition, alteration, repair or improvement works of their buildings in the event that some irresponsible owners had refused to pay their respective shares of the costs of the works. Members, however, expressed concern that given the complexity and implication of the proposal, it would inevitably prolong the scrutiny process and delay passage of the Bill if the Bills Committee decided to pursue the proposal. Members also considered that another round of consultation had to be conducted as the proposal had not been included in the Bill. They requested the Administration to consult the professional bodies in the building management sector on the proposal.

Clerk 9. After discussion, members decided that the Bills Committee would defer consideration of the proposal pending the Administration's response on the consultation outcome with the professional bodies. The Chairman instructed that the Clerk should inform other organizations and individuals which/who had made submissions to the Bills Committee of the proposal and invite their views, if any. The Chairman also instructed the Clerk to inform other members of the decision made.

Admin 10. To facilitate future consideration of the proposal, the Administration was requested to provide responses to the following issues raised by members –

- (a) whether an OC could submit an application for a loan from the Government if the owners concerned lodged an appeal against the statutory building orders imposed;
- (b) whether the proposed appeal mechanism would handle appeals lodged by individual owners against the statutory building orders imposed; and
- (c) whether the appeal mechanism involved a full hearing of the appeal case by the court.

Admin 11. The Administration was also requested to provide the following information –

- (a) a full list of the bureaux/departments empowered to issue the statutory directions, notices or orders as referred to in paragraph 7 of the Administration's paper under reference and the relevant empowering provisions; and

Action

- (b) information on the Building Safety Loan Scheme and other loan schemes relevant to the proposal including the terms and conditions as well as the maximum loan amount(s).

III. Any other business

Date of next meeting

12. Members noted that the next meeting would be held on Thursday, 27 April 2006 at 10:45 am.

13. There being no other business, the meeting ended at 4:20 pm.

Council Business Division 2
Legislative Council Secretariat
24 May 2006

**Proceedings of the Bills Committee on
Building Management (Amendment) Bill 2005
on Thursday, 20 April 2006 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
000000 - 000343	Chairman	<u>Confirmation of minutes of meeting on 23 March 2006</u> [LC Paper No. CB(2)1748/05-06]	
000344 - 001118	Chairman Admin Mr Patrick LAU	<u>Libel cases, the Building Affairs Tribunal and regulation of property management companies</u> [paragraphs 18-22 of LC Paper No. CB(2)222/05-06(01)]	
001119 - 004839	Chairman Admin Mr Patrick LAU Mrs Selina CHOW ALA4 Mr LEUNG Kwok-hung Mr WONG Kwok-hing	<u>Appointment procedures of a management committee (MC)</u> [LC Paper No. CB(2)833/05-06(01)] The Administration's new proposal to amend clause 23(d)(i) and clause 23(g)(ii), in the English text, so that at a meeting of owners, the owners shall appoint, from amongst the owners instead of "from amongst themselves", the members of the MC.	Admin to follow up the Chairman's suggestion (para. 7 of minutes)
004840 - 014549	Chairman Admin ALA4 Mrs Selina CHOW Ms Audrey EU Mr LEUNG Kwok-hung Ms Miriam LAU	<u>Borrowing power of owners' corporations (OCs)</u> [LC Paper No. CB(2)1049/05-06(01)] - briefing by the Administration on the new proposal; - merits of the proposal and concerns raised by members - follow-up actions required of the Administration - the Bills Committee's decision to defer discussion of the proposal pending the outcome of the Administration's consultation with professional bodies in the building management sector.	Admin to conduct consultation on the proposal with professional bodies and to provide written response and supplementary information (paras. 8, 10 & 11 of minutes) Clerk to inform other members of the Bills Committee's decision and to invite the public to give views on the proposal (para. 9 of minutes)
014550 - 014625	Chairman	Date of next meeting	