

立法會 *Legislative Council*

LC Paper No. CB(2)3034/05-06

(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, 20 June 2006 at 4:30 pm in Conference Room A of the Legislative Council Building

- Members present** : Hon James TO Kun-sun (Chairman)
Hon Albert HO Chun-yan
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Miriam LAU Kin-yee, 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 LEUNG Kwok-hung
Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** : Hon Margaret NG
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
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. Meeting with the Administration
[LC Paper No. CB(2)342/05-06(01)]

The Bills Committee discussed issues relating to accounts of corporation, financial arrangements for owners' corporations (OCs) and managers, general powers of corporation, meeting and procedure of corporation, maximum allowances in respect of each holder of office of a management committee (MC), setting up building supervisory committees, allocation of management shares, and other miscellaneous issues in the Administration's paper entitled "The Administration's response to the views of the deputations attending the meeting on 25 June 2005" [LC Paper No. CB(2)342/05-06(01)] (Index of proceedings is at **Annex**).

Failure of an MC/manager to supply copies of any records of account and any income and expenditure account or balance sheet, or any budget referred to in the Fifth Schedule or in the Seventh Schedule upon requests of owners

2. Members in general considered that since owners had been authorised by the Building Management Ordinance (BMO) to request the corporation or the manager to supply them with copies of any of the above records or documents, they should not be required to request for convening a general meeting of the corporation or resort to institute civil proceedings when the MC or manager refused to accede to such requests without reasonable excuses. The Administration was requested to explore putting in place fast-track summary proceedings for handling this kind of cases.

Admin

Action

3. Ms Audrey EU was of the view that owners should be entitled to request the MC or manager to supply copies of relevant documents other than those stipulated in the legislation such as records of procurement or tendering. The Administration informed members that in response to a similar suggestion previously made by members, the Administration would make reference to other legislation and revert to the Bills Committee accordingly.

Admin

4. Ms Audrey EU suggested that the Administration should conduct a survey on the copying costs generally charged by MCs, and provide the information on the range of copying costs normally charged by MCs in the relevant Code of Practice issued by the Secretary for Home Affairs. The Administration would consider the suggestion.

Admin

Section 34I of BMO

5. The Chairman expressed concern that section 34I of BMO as presently worded might create a loophole by which the owners' committee could convert any part of the common parts of a building to private use by a resolution, i.e. a majority of votes of the owners voting at a meeting only. He considered that there was a need to review the provision in order to ensure adequate protection to individual owners.

Meeting and procedure of corporation

6. The Administration was requested to consider whether MCs should be required under BMO to display minutes of the proceedings at every meeting of an MC in a prominent place in the building for a specified period of time.

Admin

7. The Chairman also requested the Administration to confirm whether OCs were authorised under BMO to prohibit owners from conducting sound recording or video recording during meetings of the corporation.

Admin

Maximum allowances in respect of each holder of office of an MC

8. Members raised no objection to the Administration's proposal of moving a Committee Stage amendment to the Bill to stipulate that the total amount of allowances receivable by each holder of office of an MC could not exceed the maximum allowances in respect of each holder of office of an MC prescribed in the Fourth Schedule to BMO.

9. The Chairman pointed out that he had come across a case in which the chairman of an MC had been appointed on a full-time basis and received a salary for his job of discharging administrative duties of building management. The Administration was requested to confirm whether it was permissible to do so under BMO.

Admin

Action

Mechanism to amend terms and conditions of deeds of mutual covenant (DMCs) which were unfair to owners

10. Members expressed concern that although the current Guidelines for DMCs revised in 2006 had provided for standardization of the basis of the calculation of undivided shares and management shares on a gross floor area basis, it could not address the problems of unfair allocation of undivided shares and management shares under DMCs approved before the issue of the Revised Guidelines.

Admin

11. The Chairman recalled that when the issue was discussed in the legislative exercise to amend BMO in 1993, the Administration had provided information explaining difficulties in resolving such problems. To facilitate members' consideration as to whether the issue should be pursued in the current legislative exercise, the Bills Committee requested the Administration to –

- (a) provide the above information that the Administration had previously provided in 1993; and
- (b) seek advice from the Legal Advisory and Conveyancing Office of the Lands Department on the appropriate basis for a fair allocation of undivided shares and management shares.

II. Any other business

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

13. There being no other business, the meeting ended at 6:25 pm.

Council Business Division 2
Legislative Council Secretariat
15 September 2006

**Proceedings of the Bills Committee on
Building Management (Amendment) Bill 2005
on Tuesday, 20 June 2006 at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 010629	Chairman Admin Ms Audrey EU Miss CHOY So-yuk Ms Miriam LAU	<u>Discussion on the Administration's paper entitled "The Administration's response to the views of the deputations attending the meeting on 25 June 2005"</u> [LC Paper No. CB(2)342/05-06(01)] Failure of a management committee (MC)/manager to supply copies of any records of account and any income and expenditure account or balance sheet, or any budget referred to in the Fifth Schedule or in the Seventh Schedule upon requests of owners	Admin to consider members' suggestions and revert to the Bills Committee (paras. 2-4 of minutes)
010630 - 011729	Chairman Admin Miss CHOY So-yuk	Section 34I of the Building Management Ordinance, and meeting and procedure of corporation	Admin to consider members' suggestion and to provide information (paras. 6 & 7 of minutes)
011730 - 013911	Chairman Admin Mr Albert HO Ms Audrey EU Mr WONG Kwok-hing	Maximum allowances in respect of each holder of office of an MC	Admin to consider the case cited by the Chairman (para. 9 of minutes)
013912 - 014713	Chairman Ms Emily LAU Ms Audrey EU Mr WONG Kwok-hing Mr Albert HO	Mechanism to amend terms and conditions of deeds of mutual covenant which were unfair to owners	Admin to provide information (para. 11 of minutes)
014714 - 014920	Chairman Admin	Date of next meeting	