

立法會
Legislative Council

LC Paper No. CB(2)2301/04-05
(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, 23 June 2005 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 Margaret NG
Hon Miriam LAU Kin-ye, GBS, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Patrick LAU Sau-shing, SBS, JP
Hon TAM Heung-man
- Members absent** : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon LI Kwok-ying, MH
- Public Officers attending** : Department of Home Affairs
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)2015/04-05]

The minutes of the meeting held on 2 June 2005 were confirmed.

II. Meeting with the Administration
[LC Paper Nos. CB(2)1709/04-05(04) and CB(2)1885/04-05(03)]

2. The Bills Committee deliberated (Index of proceedings at **Annex**).

Written questions on the Bill raised by members

3. The Bills Committee agreed that members who wished to raise any written questions on the Bill should forward such questions to the Clerk, who would forward them as questions raised by the Bills Committee to the Administration for written response.

Information to be provided by the Administration

Admin 4. As suggested by Mr WONG Kwok-hing, the Administration agreed to provide a comparison table setting out the relevant provisions of the Building Management Ordinance (BMO) to be amended and the proposed amendments. Members agreed that on the basis of the views expressed by deputations at the

Action
LegCo
Secretariat

meetings on 25 June and 30 June 2005, the Legislative Council Secretariat would prepare a summary of issues identified for the Administration to respond.

Written response to issues raised at the meeting

Admin

5. The Bills Committee discussed the Administration's written responses to questions 1 – 7 raised by Miss CHOY So-yuk in her letter dated 25 May 2005 [LC Paper No. CB(2)1885/04-05(03)]. The Administration was requested to provide written response to the following issues –

Appointment of an Management Committee (MC)

- (a) in the scenario that two groups of owners of the same building both managed to appoint their respective MCs in accordance with the relevant provisions of BMO and applications were respectively made by these MCs to the Land Registrar for registration of owners' corporations (OC), to explain the criteria adopted by the Land Registrar in deciding which application was to be approved;
- (b) to provide a copy of the form required to be filled out by persons who borrowed the records of current owners of a building from District Offices;
- (c) to consider a suggestion that penalties should be introduced against persons who failed to return the records of current owners to District Offices before deadlines or any unauthorised use of information contained in the records for commercial purposes;
- (d) to consider the need for ensuring that the records of owners were updated before they were to be provided to owners;
- (e) in respect of cases in which the manager specified in the Deeds of Mutual Covenant (DMC) or the serving OC of a building forestalled the next OC from being set up (e.g. forbidding owners who intended to set up an OC to distribute leaflets to other owners or preventing them from convening an owners' meeting) –
 - (i) to explain the extent to which the DMC manager/existing OC was allowed under existing laws to forbid other owners to undertake the above activities, and what legal protection was rendered to owners who were prevented from undertaking those activities; and

Action

- (ii) to consider any further amendments which should be made to BMO in order to tackle the above problems;
- (f) to explain whether compliance with the requirements in respect of serving of notice of meetings under section 5 of BMO would be necessary in convening a meeting under section 3, 3A, 4 or 40C of BMO subsequent to the cancellation of a meeting convened under the same section due to the absence of a quorum at the time appointed for that meeting or during that meeting; and
- (g) to confirm whether an owner, who was a body corporate, could appoint a person to act as the convenor and chair the meeting.

Dates of meetings

6. The Chairman reminded members that the next two meetings of the Bills Committee would be held on the following dates to meet with deputations –

- (a) Saturday, 25 June 2005 from 9:00 am to 12:00 noon; and
- (b) Thursday, 30 June 2005 from 9:00 am to 12:00 noon.

7. The Bills Committee scheduled another meeting for Tuesday, 12 July 2005 at 8:30 am to continue discussion on the Bill with the Administration.

8. The meeting ended at 6:30 pm.

Council Business Division 2
Legislative Council Secretariat
18 July 2005

**Proceedings of the Bills Committee on
Building Management (Amendment) Bill 2005
on Thursday, 23 June 2005 at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
000000 - 002819	Chairman Ms Miriam LAU Mr WONG Kwok-hing Miss CHOY So-yuk Mr Andrew CHENG Mr Patrick LAU Clerk Admin	<u>Letters from Miss CHOY So-yuk to the Administration raising questions on the Bill</u> The Bills Committee agreed that members who wished to raise any written questions on the Bill should forward such questions to the Clerk, who would forward them as questions raised by the Bills Committee to the Administration for written response.	
002820 - 003400	Mr WONG Kwok-hing Chairman Admin	The Administration agreed to provide a comparison table setting out the relevant provisions of the Building Management Ordinance (BMO) to be amended and the proposed amendments. On the basis of the views expressed by deputations at the meetings on 25 June and 30 June 2005, the Legislative Council Secretariat would prepare a summary of issues identified for the Administration to respond. <u>Discussion on the Administration's written responses to questions 1 – 7 raised by Miss CHOY So-yuk in her letter dated 25 May 2005</u> [LC Paper No. CB(2)1885/04-05(03)]	Admin to provide information (para. 4 of the minutes) LegCo Secretariat to prepare a summary of issues for the Administration's response (para. 4 of the minutes)
003400 - 014239	Mr WONG Kwok-hing Mr Albert HO Miss CHOY So-yuk Ms Miriam LAU Mr LEUNG Kwok-hung Miss TAM Heung-man Ms Audrey EU Admin Chairman	<i>Appointment of an Management Committee (MC)</i> - in the scenario that two groups of owners of the same building both managed to appoint their respective MCs in accordance with the relevant provisions of BMO and applications were respectively made by these MCs to the Land Registrar for registration of owners' corporations (OC), the Administration to explain the criteria adopted by the Land Registrar in deciding which application was to be approved; - the Administration to provide a copy of the form required to be filled out by persons who borrowed the records of current owners of a building from District Offices; - the Administration to consider a suggestion that penalties should be introduced against persons who failed to return the records of current owners to	Admin to provide written response (para. 5(a)-(g) of the minutes)

Time marker	Speaker	Subjects	Action required
		<p>District Offices before deadlines or any unauthorised use of information contained in the records for commercial purposes;</p> <ul style="list-style-type: none"> - the Administration to consider the need for ensuring that the records of owners were updated before they were to be provided to owners; - in respect of cases in which the manager specified in the Deeds of Mutual Covenant (DMC) or the serving OC of a building forestalled the next OC from being set up (e.g. forbidding owners who intended to set up an OC to distribute leaflets to other owners or preventing them from convening an owners' meeting) – <ul style="list-style-type: none"> (i) the Administration to explain the extent to which the DMC manager/existing OC was allowed under existing laws to forbid other owners to undertake the above activities, and what legal protection was rendered to owners who were prevented from undertaking those activities; and (ii) to consider any further amendments which should be made to BMO in order to tackle the above problems; - the Administration to explain whether compliance with the requirements in respect of serving of notice of meetings under section 5 of BMO would be necessary in convening a meeting under section 3, 3A, 4 or 40C of BMO subsequent to the cancellation of a meeting convened under the same section due to the absence of a quorum at the time appointed for that meeting or during that meeting; and - the Administration to confirm whether an owner, who was a body corporate, could appoint a person to act as the convenor and chair the meeting. 	
014240 - 014830	Chairman Mr WONG Kwok-hing Ms Miriam LAU Clerk	Scheduling another meeting of the Bills Committee to continue discussion on the Bill with the Administration.	