

立法會
Legislative Council

LC Paper No. CB(2)3096/05-06
(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, 18 July 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 Jasper TSANG Yok-sing, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Albert CHAN Wai-yip
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 Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon CHOY So-yuk, JP
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, JP
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 Lawrence PENG
Senior Assistant Law Draftsman

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)2744/05-06]

The minutes of the meeting held on 6 June 2006 were confirmed.

II. Meeting with the Administration

[Ref : HAD HQ IV 20/5/1, LC Paper Nos. CB(2)222/05-06(03), CB(2)342/05-06(01), CB(2)2368 /05-06(01) and CB(2)1049/05-06(01)]

2. The Bills Committee discussed issues relating to procurement of third party risks insurance in the paper entitled “The Administration’s response to views of the professional bodies in the building management sector” [LC Paper No. CB(2)222/05-06(03)] and 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 attached at **Annex**).

3. The Chairman and Mr WONG Kwok-hing were of the view that in order to afford better protection for third parties, the scope of the current proposal on procurement of third party risks insurance should be expanded as follows –

- (a) the policy on third party risks insurance to be procured by an owners’ corporation (OC) should be required to cover liabilities incurred in relation to the unauthorised building works (UBWs), if any, of the building in respect of a third party’s bodily injury and death; and

Action

- (b) for buildings which had only engaged the service of building managers but had not formed OCs, the building managers should be required on a compulsory basis to procure and keep in force in relation to the common parts of the building a policy of third party risks insurance.

Admin

The Administration agreed to consider whether there were any implementation difficulties if the scope of the current proposal on procurement of third party risks insurance would be expanded as suggested in paragraph 3(b) above.

Admin

4. The Chairman also suggested that the Administration should bring to the attention of those OCs which had accumulated a relatively large money reserve the benefits of procuring the professional indemnity and fidelity insurance policy on performance failure.

5. The Administration was requested to confirm whether a visitor or his/her dependant(s) could claim compensation in case of death or bodily injury under motor vehicle third party risks insurance if he was knocked down by a car in the carpark of a building and whether a claim could be made against the OC concerned as well.

6. Referring to the suggestion made by the Hong Kong Federation of Insurers that an Asbestos exclusion should be included in proposed section 3(2) of the draft Building Management (Third Party Risks Insurance) Regulation, some members were of the view that as the risk of the presence of asbestos was high only in very old buildings and providers for insurance which covered liabilities in respect of bodily injury and death arising from asbestos might be very limited in the market or confined to a few major insurers, the Administration should re-consider whether OCs should be allowed to procure, only on an optional basis, a policy on third party risks insurance which also covered liabilities in respect of bodily injury and death caused by or arising from asbestos. The Administration undertook to discuss with the Federation again.

Admin

7. Mr WONG Kwok-hing requested to put on record his view that a ceiling should be imposed on the third party liabilities borne by OCs in relation to the common parts of their buildings.

III. Any other business

8. Members noted that the next meeting would be held on Wednesday, 19 July 2006 at 10:45 am.

Action

9. There being no other business, the meeting ended at 12:43 pm.

Council Business Division 2
Legislative Council Secretariat
26 September 2006

**Proceedings of the Bills Committee on
Building Management (Amendment) Bill 2005
on Tuesday, 18 July 2006 at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000-000643	Chairman	<u>Confirmation of the minutes of the meeting held on 6 June 2006</u> [LC Paper No. CB(2)2744/05-06]	
000644-001029	Chairman Ms Emily LAU Admin	<u>Discussion on issues relating to procurement of third party risks insurance in the paper entitled “The Administration’s response to views of the professional bodies in the building management sector”</u> [LC Paper No. CB(2)222/05-06(03)]	
001030-003247	Chairman Admin Ms Emily LAU Mr LI Kwok-ying	Discussion on the feasibility of expanding the scope of the current proposal on procurement of third party risks insurance in such a way that the policy on third party risks insurance to be procured by an owners’ corporation (OC) should also cover liabilities incurred in relation to the unauthorised building works (UBWs), if any, of the building in respect of a third party’s bodily injury and death.	Admin to consider members’ views (para. 3(a) of minutes)
003248-005540	Chairman Admin Mr LI Kwok-ying Mr Alan LEONG	Discussion on the suggestion made by the Hong Kong Federation of Insurers that an Asbestos exclusion should be included in proposed section 3(2) of the draft Building Management (Third Party Risks Insurance) Regulation.	Admin to discuss with the Federation (para. 6 of minutes)
005541-005827	Chairman Admin	Matters relating to the cross liability and severability of interest between the assured corporation and the assured owners, and the apportionment of policy limit between the OC and the owners.	
005828-011629	Chairman Admin Mr WONG Kwok-hing	Suggestion of procuring the professional indemnity and fidelity insurance policy on performance failure by OCs.	Admin to follow up (para. 4 of minutes)

Time marker	Speaker	Subject	Action required
011630-012339	Chairman Admin Mr WONG Kwok-hing	<p><u>Discussion on issues relating to procurement of third party risks insurance in the 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)]</p> <p>Concern about applicability of motor vehicle third party risks insurance to car accidents occurring in the carpark of a building and involving a visitor(s) as victims and whether the victims could claim compensation from the OC concerned as well.</p>	Admin to provide information (para. 5 of minutes)
012340-014142	Mr WONG Kwok-hing Chairman Admin	Suggestion of requiring the building managers of buildings which had only engaged the service of building managers but had not formed OCs to procure and keep in force in relation to the common parts of the building a policy of third party risks insurance on a compulsory basis.	Admin to consider the suggestion (para. 3 of minutes)
014143-014936	Chairman Admin Mr WONG Kwok-hing	Discussion on the feasibility of imposing a ceiling on the third party liabilities borne by OCs in relation to the common parts of their buildings.	
014937 - 015020	Chairman	<u>Date of next meeting</u>	

Council Business Division 2
Legislative Council Secretariat
 26 September 2006