

立法會
Legislative Council

LC Paper No. CB(2)352/06-07
(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, 24 October 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 Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Andrew CHENG Kar-foo
Hon Albert CHAN Wai-yip
Hon WONG Kwok-hing, MH
Hon LI Kwok-ying, MH, JP
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 Jasper TSANG Yok-sing, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Audrey EU Yuet-mee, SC, 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 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 Nos. CB(3)477/04-05, CB(2)3140/05-06(01) and (02)]

Clause-by-clause examination of the Bill

The Bills Committee completed examination of clause 5 to clause 11(a) of the Bill and proposed amended sections 8, 10, 14 and 15, together with relevant Committee Stage amendments (CSAs) proposed by the Administration. (Index of proceedings attached in **Annex**).

Proposed new section 7(3)(e) and proposed new paragraph 4(3) in Schedule 2

Admin

2. The Administration was requested to -

- (a) consider amending "14 days" to "21 days" in proposed new paragraph 4(3) in Schedule 2; and
- (b) provide a sample of the declaration form referred to in proposed new section 7(3)(e).

Admin

3. The Chairman requested the Administration to follow up members' suggestion that the Administration should widely publicise the new qualifications of members of a management committee (MC), such as setting them out in the forms for nomination of MC members, as well as other new statutory requirements after enactment of the Bill.

Action

Proposed new section 8(1A)

- Admin 4. The Administration was requested to -
- (a) explain the legal basis for the Land Registrar to issue a certificate of registration to a corporation under existing provision and not to issue a certificate of registration to more than one corporation for a building in respect of which a deed of mutual covenant (DMC) was in force even if the relevant DMC had so prescribed; and
 - (b) consider whether this proposed new section would be in conflict with existing section 8(1).

Proposed new section 10(1)(b)

- Admin 5. The Administration was requested to review the drafting of the Chinese text of the provision as to whether the use of the phrase "75%的過半數" would be appropriate.

Section 12(2)(d)

- Admin 6. The Administration was requested to consider the Chairman's suggestion that section 12(2)(d) should be amended to the effect that the name and address of any member of an MC would also be included in the register of corporations.

Section 14

- Admin 7. The Chairman asked whether it was the policy intent that a resolution passed at a meeting of a corporation with respect to the management and maintenance of the common parts would, by virtue of section 14(1), have an overriding effect over any provision of DMC contrary to the resolution. For example, if a DMC expressly stated that owners were allowed to keep dogs in a building, whether a resolution passed at a meeting of a corporation could forbid the owners to do so.

- ALA4 8. The Chairman requested the Administration and the legal adviser to the Bills Committee to consider the issue.

- Admin 9. The Administration was requested to consider Mr Albert CHAN's suggestion of substituting "變通" with "更改" which, in his view, reflected more accurately the meaning of "modification" in proposed new section 14(4). The Chairman, however, considered that the term "變通" was acceptable.

Action

Section 18(2)(aa)

10. Some members including the Chairman, Ms Emily LAU and Mr Albert CHAN expressed concern that allowing all members of an MC to be eligible for the allowances to be approved by a resolution of a corporation could incur a very large sum of expenses to owners and might give rise to abuses. These members suggested that, in order to recognise the statutory duties of the chairman, vice-chairman, secretary and treasurer of an MC, it should be expressly stated that only these four office-holders should be eligible for the allowances. The Administration agreed to consider the suggestion.

Admin

II. Any other business

Date of next meeting

11. Members noted that the next meeting would be held on Thursday, 2 November 2006, at 2:30 pm.

Scheduling of additional meetings in November 2006

12. Members agreed that the Bills Committee should consider scheduling additional meetings in November 2006. To facilitate discussion of the matter at the next meeting, the Clerk was requested to issue a list of proposed timeslots for holding additional meetings for members' consideration.

Clerk

13. There being no other business, the meeting ended at 12:45 pm.

Council Business Division 2
Legislative Council Secretariat
14 November 2006

**Proceedings of the Bills Committee on
Building Management (Amendment) Bill 2005
on Tuesday, 24 October 2006, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 001227	Chairman Admin Mr LI Kwok-ying	Clause-by-clause examination of the Bill and scrutiny of the Committee Stage amendments (CSAs) proposed by the Administration [The Bill and LC Paper Nos. CB(2)3140/05-06(01) & (02)] <u>Clauses 5 and 6</u> Amended sections 3A and 4	
001228 - 001448	Chairman Admin Ms Emily LAU	<u>Clause 7</u> Repeal of section 5	
001449 - 001605	Chairman Admin	<u>Clause 8</u> Repeal of section 5A	
001606 - 010413	Chairman Admin Miss CHOY So-yuk Ms Emily LAU Mr LI Kwok-ying Mr WONG Kwok-hing Mr Albert CHAN Ms Miriam LAU	<u>Clause 9</u> Amended section 7 and proposed new paragraph 4(1), 4(3), 4(4), 4(5) and 4(6) in Schedule 2	Admin to consider members' suggestions (paras. 2 and 3 of minutes)
010414 - 013045	Chairman Admin Ms Margaret NG Mr LI Kwok-ying Mr WONG Kwok-hing	<u>CSA proposed by the Administration</u> Proposed new section 8(1A)	Admin to give written explanation (para. 4 of minutes)
013046 - 013848	Chairman Admin Mr LI Kwok-ying Mr Albert CHAN Ms Emily LAU	<u>CSA proposed by the Administration</u> Amended section 10(1)	Admin to consider drafting issue (para. 5 of minutes)

Time marker	Speaker	Subject	Action required
013849 - 013459	Chairman Admin Mr Albert CHAN Ms Emily LAU Mr LI Kwok-ying	<u>CSA proposed by the Administration</u> Amended section 12(1) <u>Clause 10</u> Proposed new section 12(2)(da)	Admin to consider the Chairman's suggestion and provide clarification (paras. 6 and 7 of minutes) ALA to consider the issue (para. 8 of minutes)
013500 - 013759	Chairman Admin Mr Albert CHAN	<u>CSA proposed by the Administration</u> Amended section 14	Admin to review Chinese translation of "modification" (para. 9 of minutes)
013800 - 015628	Chairman Admin Mr LI Kwok-ying	<u>CSA proposed by the Administration and clause 46</u> Amended section 15	
015629 - 015759	Chairman Admin Mr LI Kwok-ying Miss Emily LAU	<u>Clause 11(a) and CSA proposed by the Administration</u> Amended section 18	Admin to consider members' suggestion (para. 10 of minutes)