

立法會
Legislative Council

LC Paper No. CB(2)799/06-07
(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 Friday, 24 November 2006, at 8:30 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 Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LI Kwok-ying, MH, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon TAM Heung-man
- Members absent** : Hon Albert HO Chun-yan
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHOY So-yuk, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
- 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

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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 28(g) to clause 32 of the Bill, together with relevant Committee Stage amendments (CSAs) proposed by the Administration. (Index of proceedings attached in **Annex**).

Amended paragraph 8 of Schedule 7

2. Mr WONG Kwok-hing proposed that, in order to ensure smooth continuous operation of the management work of a building during changeover of managers, paragraph 8(1) should be amended to provide that the outgoing manager would have to surrender all the keys in respect of the day-to-day operation of the management of the building that were in his custody immediately after his appointment ended. Other members, however, generally considered that it was very difficult to define "immediately" in legal context. The Administration was requested to consider the following suggestions -

- (a) amending paragraph 8(1) to provide that the manager would have to surrender movable property in respect of the control, management and administration of the building as soon as possible and, in any event, not later than seven or 14 days of the date of his appointment ended;
- (b) amending paragraph 8(2) to provide that the manager should

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fulfill his obligations so specified as soon as possible and, in any event, not later than one month of the date of his appointment ended; and

- (c) narrowing the scope of paragraph 8(2)(b).

Proposed new paragraph 9 of Schedule 7

3. The Administration informed members that it intended to move a CSA to further amend new paragraph 9 to specify that the corporation should be consulted at an owners' meeting.

4. The Chairman and Mr Albert CHAN expressed concern that the new paragraph 9 as presently drafted might have the adverse effect that the managers could no longer exercise any discretion and would be bound to adopt the decision made by the owners' corporation (OC) or owners' committee, as the case might be. The Chairman suggested that the new paragraph 9 should be amended to provide that, unless a resolution had been passed at a meeting of the owners specifying otherwise, the manager generally would have to allow communication among owners on any business relating to the management of the building. Mr Albert CHAN suggested that the new paragraph 9 should be amended along the line that the manager could not unreasonably prohibit or restrict the communication among owners on any business relating to the management of the building and would have to ensure that owners and the OC or manager enjoyed equal right in communicating with other owners on such business.

5. Ms Emily LAU expressed dissatisfaction that the proposed new paragraph 9 could not resolve the problem that some owners had been deprived of the opportunity to receive information from external parties (e.g., elected members of their own district) due to unfair restrictions imposed by their respective managers or OCs. She considered that the scope of the proposed new paragraph was too narrow as it only covered "business relating to the management of the building". Mr WONG Kwok-hing, however, considered that individual owners should have the right to decide what information they did not want to receive and to give instructions to their manager to prohibit any such information from being put into their letterboxes.

Admin

6. The Administration was requested to take into account members' views and suggestions in proposing further CSAs to amend the proposed new paragraph 9.

Proposed new Schedule 1A and amended Schedule 8

Admin

7. The Administration informed members that it had accepted the Chairman's suggestion and would move a CSA to retain the phrase "OR

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PARAGRAPH 8 OF SCHEDULE 8 TO" in the heading of Form 1, so that the statutory format of the proxy instruments would also be applicable to meetings of owners' committee.

Admin

8. The Chairman suggested that the new procedures to facilitate the cross-checking of proxy by owners should also apply to meetings of owner's committee given that owners' committees also discharged important functions. The application could prevent abuses and the additional administrative burden would only be borne by the manager. The Administration was requested to consider the suggestion and to propose amendments to Schedule 8 as appropriate.

Amended Schedule 11

Admin

9. The Administration was requested to clearly explain the provisions of Schedule 11 with detailed illustration in the relevant guidelines to be issued to OCs/owners for reference.

Date of next meeting

10. Members noted that the next meeting would be held on Thursday, 7 December 2006, at 2:30 pm.

11. There being no other business, the meeting ended at 10:30 am.

Council Business Division 2
Legislative Council Secretariat
5 January 2007

**Proceedings of the meeting of Bills Committee on
Building Management (Amendment) Bill 2005
on Friday, 24 November 2006, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000823	Chairman Admin Ms Audrey EU 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>Clause 28(g) and CSAs proposed by the Administration</u> Amended paragraph 7 of Schedule 7	
000824 - 004800	Chairman Admin Mr WONG Kwok-hing Ms Audrey EU Mr Abraham SHEK Mr LI Kwok-ying Ms Emily LAU Prof Patrick LAU	<u>CSAs proposed by the Administration</u> Amended paragraph 8 of Schedule 7	Admin to consider the Chairman's suggestions (para. 2 of minutes)
004801 - 012945	Chairman Admin Ms Emily LAU Mr WONG Kwok-hing Ms Miriam LAU Mr Abraham SHEK Mr Albert CHAN	<u>CSAs proposed by the Administration</u> Proposed new paragraph 9 of Schedule 7	Admin to propose amendments for paragraph 9 of Schedule 7 (para. 6 of minutes)
012946 - 014457	Chairman Admin Mr WONG Kwok-hing Ms Emily LAU Mr Albert CHAN	<u>Clause 29 and CSAs proposed by the Administration</u> Amended Schedule 8	Admin to move CSA and to consider the Chairman's suggestion. (paras. 7 & 8 of minutes)
014458 - 014511	Chairman Admin	<u>Clauses 30 & 31</u> Amended Schedule 9 & 10	
014512 - 014957	Chairman Admin Mr WONG Kwok-hing Mr Albert CHAN	<u>Clause 32 and CSAs proposed by the Administration</u> Amended Schedule 11	Admin to strengthen relevant guidelines (para. 9 of minutes)
014958 - 015135	Chairman	Date of next meeting	