

立法會
Legislative Council

LC Paper No. CB(1)965/10-11
(These minutes have been seen
by the Administration)

Ref : CB1/BC/4/09/2

Bills Committee on Buildings (Amendment) Bill 2010

Twelfth meeting on
Tuesday, 7 December 2010, at 4:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon IP Kwok-him, GBS, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP (Deputy Chairman)
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon Priscilla LEUNG Mei-fun
Hon Tanya CHAN

Members absent : Dr Hon Margaret NG
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP

Public officers : Mr Tommy YUEN Man-chung, JP
Attending Deputy Secretary for Development (Planning and Lands) 2

Mr Edward TO Wing-hang
Principal Assistant Secretary for Development
(Planning and Lands) 3

Mr Harry LIN Ting-yan
Assistant Secretary for Development (Buildings) 2

Mr LAM Siu-tong
Deputy Director of Buildings

Mr Alex CHOW Kim-ping
Assistant Director / Support
Buildings Department

Ms Rayne CHAI Chih-hui
Senior Government Counsel
Department of Justice

Miss Elaine NG Pui-kei
Government Counsel
Department of Justice

Clerk in Attendance : Mr Stephen LAM
Chief Council Secretary (1)4

Staff in Attendance : Miss Winnie LO
Assistant Legal Adviser 7

Mr Daniel SIN
Senior Council Secretary (1)7

I Confirmation of minutes

(LC Paper No. CB(1)668/10-11 -- Minutes of meeting on
9 November 2010)

. The minutes of the meetings held on 9 November 2010 were confirmed.

II Meeting with the Administration

Outstanding issues from previous meetings

(LC Paper No. CB(1)666/10-11(01) -- Administration's response to issues raised at the meeting on 9 November 2010)

Clause-by-clause examination of the Bill

(LC Paper No. CB(3)389/09-10 -- The Bill
LC Paper No. CB(1)1168/09-10(01) -- Marked-up copy of the Bill prepared by the Legal Service Division)

Other relevant papers previously issued

(File Ref: DEVB(PL-CR) 2-15/08 -- Legislative Council Brief
LC Paper No. LS42/09-10 -- Legal Service Division Report
LC Paper No. CB(1)1168/09-10(02) -- Paper on Buildings (Amendment) Bill 2010 prepared by the Legislative Council Secretariat (Background brief)
LC Paper No. CB(1)666/10-11(02) -- List of follow-up actions arising from the discussion at the meeting on 9 November 2010
LC Paper No. CB(1)1935/09-10(01) -- List of follow-up actions arising from the discussion at the meeting on 6 May 2010)

2. The Committee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration

3. The Administration is requested to provide the following:-

- (a) analysis from the experience of the Operation Building Bright whether there were adequate supply of registered inspectors (RIs) of acceptable quality; and

- (b) draft wording of the Codes of Practice that requires RIs to report to the Building Authority (BA) any observations, from the common areas of a building, of structural alterations that might require follow-up by BA.

III Any other business

- 4. There being no other business, the meeting ended at 6:28 pm.

Council Business Division 1
Legislative Council Secretariat
3 January 2011

Bills Committee on Buildings (Amendment) Bill 2010

**Proceedings of the Twelfth meeting
on Tuesday, 7 December 2010, at 4:30 pm
In Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 – 000405	Chairman	Opening remarks and confirmation of minutes (LC Paper No. CB(1)668/10-11)	
000406 – 001117	Administration	The Administration's briefing on its paper (LC Paper No. CB(1)666/10-11(01)) The Administration highlighted responses to issues raised at the previous meetings.	
001118 – 001550	Administration	(a) The Administration's explanation that members' suggestions for the government to advance payment on behalf of the unco-operative owners' share of inspection and repair cost would require additional legal provisions to define the timing for intervention by the Administration and introduction of an appeal mechanism to those defaulting owners. Introducing such additional provisions and appeal mechanism would adversely delay the current legislative process. The commencement of the Mandatory Building Inspection Scheme (MBIS) would hence be delayed. (b) The Administration accepted members' views and would remove the imprisonment term against owners who refused to contribute his share of cost of prescribed inspection and repair works that was required by the owners' corporation (OC) for the purpose of complying with the statutory notices under MBIS and the Mandatory Window Inspection Scheme (MWIS), but would increase the maximum fine to level 4 (\$25,000).	

Time Marker	Speaker	Subject(s)	Action Required
		<p>(c) The Administration would respond quicker in carrying out default inspection and repair works where OCs had difficulties in complying with statutory notices by employing government inspectors/contractors specifically engaged for default inspections and repair works under the MBIS.</p> <p>(d) The Administration considered it unnecessary to set up a separate dispute resolution mechanism for OCs and owners who refused to contribute to the cost of prescribed inspection and repair works.</p>	
001551 – 002054	Mr WONG Kwok-hing Administration	<p>(a) Mr WONG welcomed the proposed removal of imprisonment terms, and the engagement of government inspectors/contractors specifically for default inspection and repair works for the MBIS. He suggested the contract price should be standardized and transparent.</p> <p>(b) The Administration's explanation that the Buildings Department (BD) would follow the established tendering procedures to assess the contract price.</p>	
002055 – 003822	Ms Audrey EU Chairman Administration	<p>(a) Ms EU's suggestion that the Administration should advance the unco-operative owner's share of the inspection and repair cost to enable prescribed inspection and repair works to proceed.</p> <p>(b) With BD engaging contractors to carry out the works, the Administration considered that the proposed arrangement was not necessary, and added that the Hong Kong Housing Society (HKHS) and Urban Renewal Authority (URA)</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>would provide technical assistance to OCs, especially on conducting and selection of tenders.</p> <p>(c) Discussion on how the Administration's new proposed initiatives of engaging government inspectors/contractors specifically for default inspection and repair works could reduce the costs of such works so that they are much closer to market rates.</p>	
003823 – 005347	Mr KAM Nai-wai Administration Chairman	<p>(a) Mr KAM's suggestion that the Administration should set out clearly the circumstances in which BD would take over the prescribed inspection and repair works from OCs.</p> <p>(b) Mr KAM's support of Ms EU's suggestion for the Administration to advance the cost to an OC in default of an unco-operative owner and charge the amount against his property title.</p> <p>(c) Mr KAM's query that, if an unco-operative owner should be allowed to appeal under such circumstances, the appeal and the prescribed inspection and repair works should proceed in parallel to avoid delay.</p> <p>(d) The Administration's response that experience could be drawn from the Operation Building Bright (OBB) in determining when BD should step in to carry out prescribed inspection and repair works and recover costs from OCs.</p> <p>(e) But before BD took over the works, HKHS and URA would play a more active role to contact OCs and provide technical advice and support.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>(f) The Administration's explanation that where HKHS and URA would subsidise the first time inspection fees, they would advise OCs on the tendering procedures.</p> <p>(g) Mr KAM's query whether Building Authority (BA) could delegate power to HKHS and URA to supervise the works.</p> <p>(h) The Administration's response that HKHS and URA would develop guidelines, based on OBB experience, for OCs to carry out prescribed inspection and repair works under MBIS and MWIS.</p>	
005348 – 005835	Mr KAM Nai-wai Administration	<p>(a) Mr KAM's suggestion that the guidelines issued by HKHS and URA should have legal status.</p> <p>(b) The Administration's explanation that the guidelines would serve as best practices for reference by OCs, and would not be statutory requirements.</p>	
005836 – 005957	Ms Starry LEE Chairman	<p>(a) The Chairman's suggestion that the Administration should consider giving the HKHS and URA guidelines more legal backing.</p> <p>(b) Ms LEE agreed that stricter requirements would be necessary.</p>	
005958 – 010243	Administration	The Administration's briefing on prescribed inspection and prescribed repair (LC Paper No. CB(1)666/10-11(01))	
010244 – 011734	Mr KAM Nai-wai Chairman Administration	(a) Mr KAM's comments that it was unfair to hold OCs responsible for the prescribed inspection and repair of signboards that they did not erect or control.	

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		<p>(b) The Administration's explanation that the proposed new section 30B(6) specified that the notices for prescribed inspection and repair would first be served on the person for whom the signboard was erected. If that person could not be found, the notices would be served to the person who received any rent or income from the signboard. If, again, that person could not be found, the notices would be served on the owner of the premises in the building on which the signboard is erected.</p> <p>(c) Mr KAM's query of how unauthorized building works (UBWs) would be handled.</p> <p>(d) The Administration's explanation that the RI's duty to notify BA of UBWs found in common parts and exterior of the building would be specified under the proposed new section 30D(5)(b).</p> <p>(e) Mr KAM's concerns about the supply of good quality RIs when the pool of professionals for carrying out prescribed inspection and repair would expand rapidly.</p> <p>(f) The Administration's response that there were about 1 400 authorized persons (APs) currently registered. It was estimated that about 6 500 RIs would be available to provide services for MBIS and MWIS. The increase in the number of professionals would provide more choice to OCs and help lower the cost through competition.</p> <p>(g) The Administration added that the new minor works contractor registration system should also allow more contractors to be eligible to undertake repair works.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		(h) Mr KAM requested the Administration to provide analysis from the experience of the OBB whether there was adequate supply of registered inspectors of acceptable quality.	Administration to take action as required in paragraph 3 of the minutes
011735 – 012100	Chairman Administration	(a) The Chairman's concern about the quality of RIs. (b) The Administration explained that RIs were registered building professionals who possessed adequate experience relevant to building repair and maintenance. They would have to be interviewed by a Registration Committee for registration as RIs. The Administration would publish the names of RIs to help OCs select RIs.	
012101 – 012504	Mr KAM Nai-wai Chairman Administration	(a) Mr KAM's comments that more than 500 buildings had been repaired under OBB. The Administration should be able to analyze from these data whether OCs had been able to engage quality professionals to carry out building repair and maintenance works. (b) The Chairman's comments that the compilation of the requested analysis should not affect the progress of scrutinizing the Bill. (c) Mr KAM's query on the system of assessing the professional competency of RIs. (d) The Chairman asked the Secretariat to retrieve relevant papers discussed previously for Mr KAM's reference. (e) Both the Chairman and Mr KAM raised queries about to whom would the notices of inspection and repair of signboards be issued and the timing	

Time Marker	Speaker	Subject(s)	Action Required
		<p>for implementing the new enforcement policy against UBWs.</p> <p>(f) The Administration's clarification that prescribed inspection and repair notices would be served upon the owner of the signboards if he could be identified. It would be up to him and the OC whether the required works should be carried out jointly with the prescribed inspection or repair works for the common parts and external walls.</p> <p>(g) The Administration's indication that new resources were available for implementation of a package of new measures to enhance building safety next April.</p> <p>(h) The Administration's explanation that introducing RIs for carrying out prescribed inspection would increase the pool of professionals, provide more choice for OCs and enhance competition in the market.</p> <p>(i) Mr KAM's query about which parties would be responsible for inspection and repair of drying racks attached to external walls.</p> <p>(j) The Administration's explanation that BA would issue the notices to the respective owners of the premises under the proposed new section 30B(5).</p>	
012505 – 014013	Ms Starry LEE Administration Chairman	(a) Ms LEE's suggestions that the Administration should invite independent APs to provide objective advice to OCs on tendering for prescribed inspection and repair works under MBIS and MWIS, similar to the arrangements made for OBB.	

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		<p>(b) The Administration explained that HKHS and URA, who subsidize first time inspection cost, would advise OCs on tendering procedures. They would also prepare guidelines on best practice for OCs' reference.</p> <p>(c) Ms LEE's comments about the Administration's refusal to impose statutory responsibility on RIs to report observations of suspected subdivision of flat during prescribed inspection or repair.</p> <p>(d) The Administration's response that code of practice/practice notes, to be prepared, would advise RIs to report signs of suspected subdivision of flat for BA's follow-up.</p> <p>(e) The Administration to provide the draft wording of the code of practice that requires RIs to report to the BA any observations, from the common parts of a building, of structural alterations that might require follow-up by BA.</p>	<p>Administration to take action as required in paragraph 3 of the minutes</p>
<p>014014 – 015252</p>	<p>Mr KAM Nai-wai Administration Chairman</p>	<p>(a) Mr KAM's suggestion that the Bill should provide for BA to issue code of practice for RIs to observe in respect of prescribed inspection and repair works under MBIS and MWIS. Such code of practice should have legal status similar to the code of Practice issued by the Secretary for Home Affairs under section 44 of the Building Management Ordinance (Cap. 344) (BMO).</p> <p>(b) The Administration's response that technical standards and administrative procedures might be updated and revised from time to time, and were more appropriate to be specified in the codes of practice instead of the</p>	

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		<p>legislation. Various codes of practice/practice notes were currently issued by BA administratively to facilitate practitioners to comply with the relevant statutory requirements.</p>	
015253 – 015324	Mr KAM Nai-wai Chairman	<p>(a) Mr KAM's suggestions that the Bill should include sanctions against APs or RIs who contravened the codes of practice or practice notes.</p> <p>(b) The Administration's response that it would be more effective for HKHS and URA to provide direct technical advice and guidelines for OCs in carrying out prescribed inspection and repair works.</p> <p>(c) Mr KAM's suggestion for the Bill to require RIs to adopt the best practices similar to the current requirements for OCs under BMO.</p> <p>(d) The Administration said RIs were already subject to disciplinary actions if they had been negligent or had had misconduct in a professional way or had committed an offence relating to carrying out his professional duties.</p> <p>(e) Mr KAM's criticism that the low enforcement statistics had shown the disciplinary measures to be ineffective.</p>	
015325 – 015414	Chairman	The next meeting would be held at 10:45 am on 23 December 2010.	