

立法會
Legislative Council

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the Administration)

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Bills Committee on Buildings Legislation (Amendment) Bill 2011

Minutes of meeting
held on Friday, 4 May 2012, at 11:00 am
in Conference Room 2B of the Legislative Council Complex

- Members present** : Hon IP Kwok-him, GBS, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon LEE Wing-tat
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Hon Tanya CHAN
- Members absent** : Hon James TO Kun-sun
Hon CHEUNG Hok-ming, GBS, JP
- Public Officers attending** : Item I
Mr Rex CHANG Wai-yuen, JP
Deputy Secretary for Development (Planning and Lands) 2

Mr Ryan CHIU Pit-ming
Principal Assistant Secretary for Development
(Planning and Lands) 3

Miss Florence LO Chung-man
Assistant Secretary for Development (Buildings) 1

Mr HUI Siu-wai
Deputy Director
Buildings Department

Mr Thomas LEUNG Tung-choi
Chief Building Surveyor/Legal Services
Buildings Department

Mr Michael PANG Yuk-lung
Senior Building Surveyor/Legislation
Buildings Department

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

Clerk in attendance : Mrs Sharon TONG
Principal Council Secretary (2)

Staff in attendance : Miss Winnie LO
Assistant Legal Adviser 7

Mr Jove CHAN
Senior Council Secretary (2) 8

Ms Camy YOONG
Clerical Assistant (2) 7

I. Meeting with the Administration

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration to -
 - (a) provide the rationale of the grounds to satisfy the magistrate in his decision to issue a warrant;
 - (b) provide a list of the notices and orders under the Buildings Ordinance (Cap. 123) ("BO") that the Buildings Department ("BD") could apply for a warrant when they

had not been complied with, information of the nature of such notices and orders and the relevant provisions of BO;

- (c) provide information on the provision of BO which provided for the compensation to be given to the property owner for loss caused by BD's officers' entry into the premises;
- (d) provide a response on whether the information on the public officers authorized to enter into the premises or land and the particulars of the enforcement actions would be detailed in the warrant;
- (e) state in its speech during the resumption of the Second Reading debate on the Bill the grade and rank of the public officers to be authorized by the Building Authority to enter into premises or land;
- (f) clarify whether the purpose of the warrant proposal included the carrying out of any works authorized under BO as in the existing section 22(1)(d);
- (g) provide information on the purpose and scope of the warrant proposal;
- (h) explain the relation of the proposed section 22(1B)(a)(i) and (ii) with building safety and whether the Administration could deal with cases under such circumstances with other legislation; and
- (i) BD's internal operational guidelines on exercising the warrant proposal and breaking into the premises.

II. Any other business

3. There being no other business, the meeting ended at 12:42 pm.

**Proceedings of meeting of
Bills Committee on Buildings Legislation (Amendment) Bill 2011
held on Friday, 4 May 2012, at 11:00 am
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Time marker	Speaker	Subject(s)	Action Required
000326 - 000421	Chairman	Opening remarks	
000422 - 001211	Chairman Admin Ms Cyd HO	<p><u>Clause-by-clause examination of the Bill - Proposed section 22(1B)(b)</u></p> <p>The reasonable time span between visits made by the Buildings Department's ("BD") officers to the premises or land on at least two different days;</p> <p>Whether BD would give notice to the owner or occupier of the premises or land of the particulars of enforcement action when the warrant for entry into the premises or land ("warrant proposal") was issued by the court; and</p> <p><u>Surcharge on defaulted works</u></p> <p>The expansion of the scope of persons who would be entitled to the exemption of the proposed surcharge on defaulted works</p>	
001212 - 002422	Chairman Ms Audrey EU Admin	<p><u>Proposed section 22(1B)(a) and (b)</u></p> <p>The reasonable number of visits and time span between visits made by BD officers to the premises or land; and</p> <p>The low threshold for BD to apply for a warrant on the grounds of suspicion that building works had been or were being carried out to the premises or land, or the use of the premises or land, had contravened any provision of the Buildings Ordinance (Cap. 123) ("BO")</p>	The Administration to provide the rationale of the grounds to satisfy the magistrate in his decision to issue a warrant
002423 - 002538	Chairman Dr Raymond HO	The monitoring of the inspections carried out by outsourced consultants of BD to avoid unnecessary visits causing nuisance to property owners or occupiers	

Time marker	Speaker	Subject(s)	Action Required
002539 - 004343	Chairman Mrs Sophie LEUNG Admin Ms Cyd HO Ms Audrey EU	<p><u>Proposed section 22(1B)(a)</u></p> <p>Raising the threshold for the application for a warrant by requesting BD to provide evidence to the magistrate to support its suspicion of contravention of a provision of BO that building works had been or were being carried out to or the use of the premises or land;</p> <p>Suggestion to set out in the Bill the circumstances under which BD would initiate to apply for a warrant;</p> <p>Examples of the real life situations of the different grounds for suspicion of contravention of BO;</p> <p>The scope of the powers of the Building Authority ("BA"); and</p> <p>Details of notices and orders under BO that BD could apply for a warrant when they had not been complied with</p>	The Administration to provide a list of the notices and orders under BO that BD could apply for a warrant when they had not been complied with, information of the nature of such notices and orders and the relevant provisions of BO
004344 - 004607	Chairman Ms Audrey EU Admin	<p><u>Proposed sections 22(1C) to (1G)</u></p> <p>Whether compensation would be given to the property owner for loss caused by BD's officers' entry into the premises</p>	The Administration to provide information on the provision of BO which provided for the compensation to be given to the property owner for loss caused by BD's officers' entry into the premises
004608 - 005443	Chairman Admin Ms Audrey EU	<p><u>Section 22(2) and proposed section 22(5)</u></p> <p>Briefing by the Administration on the amendment proposals;</p> <p>Details on the rank of public officers to be authorized by BA and whether they could be detailed in the provision; and</p> <p>Whether the information on the public officers authorized to enter into the premises or land and the particulars of the enforcement actions would be specified in the warrant</p>	<p>The Administration to -</p> <p>(a) provide a response on whether the information on the public officers authorized to enter into the premises or land and the particulars of the enforcement actions would be detailed in the warrant; and</p> <p>(b) state in its speech during the resumption of the Second Reading debate on the Bill the grade and rank of the public officers to be authorized by BA to enter into premises or land</p>

Time marker	Speaker	Subject(s)	Action Required
005444 - 011036	Chairman Ms Cyd HO Admin	<u>Proposed section 22(1G)</u> Whether the purpose of the warrant proposal include the carrying out of any works authorized under BO; and Restricting the purpose of the warrant proposal to inspection and collection of evidence only	The Administration to clarify whether the purpose of the warrant proposal included the carrying out of any works authorized under BO as in the existing section 22(1)(d)
011037 - 011522	Chairman Mr Abraham SHEK Mr LEE Wing-tat Admin	Restricting the scope of the warrant proposal to matters relating to building safety only	The Administration to provide information on the purpose and scope of the warrant proposal
011523 - 011924	Chairman	<u>Section 30B, 30C, 30D, and 33(1) to (6)</u> Briefing by the Administration on the amendment proposals	
011925 - 013223	Chairman Prof Patrick LAU Admin Mr Abraham SHEK Ms Cyd HO	<u>Section 22(1), proposed section 22(1A) and (1B)</u> The scope of the existing powers of BA and the warrant proposal; and Restricting the purpose of the warrant proposal to inspection and collection of evidence only	
013224 - 013659	Chairman Mr Abraham SHEK Admin Mrs Sophie LEUNG	The relation of the proposed section 22(1B)(a)(i) and (ii) with building safety; The scope of the existing powers of BA and the warrant proposal; and The presentation of the logic of the procedures to be followed under the warrant proposal in the provisions	The Administration to explain the relation of the proposed section 22(1B)(a)(i) and (ii) with building safety and whether the Administration could deal with cases under such circumstances with other legislation
013700 - 014024	Chairman Ms Miriam LAU Admin	Restricting the exercise of warrant proposal or breaking into the premises to obstinate property owners or occupiers only; and Notice with the particulars of enforcement actions to be given to property owners or occupiers when a warrant was issued by the court	The Administration to provide BD's internal operational guidelines on exercising the warrant proposal and breaking into the premises
014025 - 014103	Chairman	Closing remarks	

Time marker	Speaker	Subject(s)	Action Required
014104 - 014348	Chairman Mr Abraham SHEK Admin	Objection to the purpose of warrant proposal which was beyond the concern about building safety	
014349 - 014422	Chairman	Closing remarks; and Date of the next meeting	

Council Business Division 2
Legislative Council Secretariat
16 July 2012