

立法會
Legislative Council

LC Paper No. CB(3) 452/12-13

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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 27 March 2013

**Amendments to motion on
“Improving property management and operation of owners’
corporations”**

Further to LC Paper No. CB(3) 432/12-13 issued on 14 March 2013, four Members (Hon WONG Kwok-hing, Hon Claudia MO, Hon Christopher CHUNG and Hon WU Chi-wai) have respectively given notices of their intention to move separate amendments to Dr Hon Priscilla LEUNG’s motion on “Improving property management and operation of owners’ corporations” scheduled for the Council meeting of 27 March 2013. As directed by the President, the respective amendments will be printed in the terms in which they were handed in on the Agenda of the Council.

2. The President will order a joint debate on the above motion and amendments. To assist Members in debating the motion and amendments, I set out below the procedure to be followed during the debate:

- (a) the President calls upon Dr Hon Priscilla LEUNG to speak and move her motion;
- (b) the President proposes the question on Dr Hon Priscilla LEUNG’s motion;
- (c) the President calls upon the four Members who wish to move amendments to speak in the following order, but no amendment is to be moved at this stage:

- (i) Hon WONG Kwok-hing;
 - (ii) Hon Claudia MO;
 - (iii) Hon Christopher CHUNG; and
 - (iv) Hon WU Chi-wai;
- (d) the President calls upon the public officer(s) to speak;
- (e) the President invites other Members to speak;
- (f) the President gives leave to Dr Hon Priscilla LEUNG to speak for the second time on the amendments;
- (g) the President calls upon the public officer(s) to speak again;
- (h) in accordance with Rule 34(5) of the Rules of Procedure, the President has decided that he will call upon the four Members to move their respective amendments in the order set out in paragraph (c) above. The President invites Hon WONG Kwok-hing to move his amendment to the motion, and forthwith proposes and puts to vote the question on Hon WONG Kwok-hing's amendment;
- (i) after Hon WONG Kwok-hing's amendment has been voted upon, the President deals with the other three amendments; and
- (j) after all amendments have been dealt with, the President calls upon Dr Hon Priscilla LEUNG to reply. Thereafter, the President puts to vote the question on Dr Hon Priscilla LEUNG's motion, or her motion as amended, as the case may be.

3. For Members' ease of reference, the terms of the original motion and of the motion, if amended, are set out in the **Appendix**.

(Odelia LEUNG)
for Clerk to the Legislative Council

Encl.

(Translation)

**Motion debate on
“Improving property management and operation of owners’ corporations”
to be held at the Council meeting of 27 March 2013**

1. Dr Hon Priscilla LEUNG’s original motion

That as for a long time, disputes over property management issues arise in quite a number of residential estates, with some owing to small property owners not being able to set up owners’ corporations and others the lack of effective regulation over the operation of owners’ corporations, which have led to incessant litigations and even rampant corruption and illegal practices, this Council urges the authorities to review the existing Building Management Ordinance in an endeavor to resolve disputes involving property management more reasonably and effectively.

2. Motion as amended by Hon WONG Kwok-hing

That as for a long time, ~~disputes over property management issues arise~~ *the management of private multi-storey buildings has been one of the most complex issues in communities, and disputes have occurred* in quite a number of residential estates *because of property management issues*, with some owing to ~~involving~~ small property owners not being able to set up owners’ corporations and others *owing to* the lack of effective regulation over the operation of owners’ corporations, which have led to incessant litigations and even ~~rampant~~ *the occurrence of* corruption and illegal practices; *in this connection*, this Council urges the authorities to review the existing Building Management Ordinance in an endeavor to resolve disputes involving property management more reasonably and effectively; *the specific measures should include:*

- (1) *to expedite the progress of enacting legislation on regulating property management companies through licensing, and expeditiously submit the relevant bill to the Legislative Council for scrutiny;*
- (2) *to provide early-stage and specialized building management mediation services under the Home Affairs Department regarding property management dispute cases, so as to resolve disputes as early as possible, and at the same time, study the proposal of setting up a*

tribunal dedicated to handling all lawsuits involving building management;

- (3) *to examine the standards or criteria in the Conditions of Sale of newly approved residential sites to limit a property developer's total shares in the ownership of a housing estate to not more than 50% after factoring in the facilities such as shopping arcades and car parks, etc., as well as private roads owned by the property developer, so as to enable small property owners to form owners' corporations and reduce property developers' monopoly or control over property management;*
- (4) *to expeditiously implement the work related to the Competition Ordinance, and enhance the awareness of owners' corporations of anti-competitive conduct involving property management such as price collusion or bid-rigging, etc., so that such conduct can be eradicated upon the formal commencement of the Competition Ordinance; and*
- (5) *to substantially increase the frontline manpower of the Home Affairs Department for handling building management, with such manpower strength corresponding to the numbers of private multi-storey buildings serviced by District Offices in various districts, including increasing the number of liaison officers and resources for building management in various districts, so as to provide owners' corporations with more in-depth and thorough professional support.*

Note: Hon WONG Kwok-hing's amendment is marked in *bold and italic type* or with deletion line.

3. Motion as amended by Hon Claudia MO

That as for a long time, disputes over property management issues arise in quite a number of residential estates, with some owing to ~~small property owners not being able~~ *large property developers' oppression of small property owners through ownership control of estate common areas in their capacity as first-hand owners, which renders small property owners unable* to set up owners' corporations, and others the lack of effective regulation over the operation of owners' corporations, which have led to incessant litigations and even rampant corruption and illegal practices; *even though owners' corporations have been set up in some estates, the residents are unable to replace the management companies owned by large property developers because such developers control the estates' majority shares in their capacity as first-hand owners; in this connection,* this Council urges the authorities to

review the existing Building Management Ordinance in an endeavor to resolve disputes involving property management more reasonably and effectively.

Note: Hon Claudia MO's amendment is marked in ***bold and italic type*** or with deletion line.

4. Motion as amended by Hon Christopher CHUNG

That ***good building management hinges on effective government support***; as for a long time, disputes over property management issues arise in quite a number of residential estates, with some owing to small property owners not being able to set up owners' corporations, ***some the unreasonable arrangements under Deeds of Mutual Covenant***, and others the lack of effective ***support for and*** regulation over the operation of owners' corporations, which have led to incessant ***disputes or*** litigations and even rampant corruption and illegal practices; ***to strengthen the protection of the rights and interests of small property owners and tenants, enhance building management efficiency, and resolve building management problems arising from 'one building with multiple owners' corporations' and 'multiple buildings with one owners' corporation', etc.***, this Council urges the authorities to ***allocate additional resources for establishing a one-stop platform to assist small property owners and tenants in obtaining support from different departments***; and review the existing Building Management Ordinance ***to improve the mechanism for amending Deeds of Mutual Covenant and*** in an endeavor to resolve disputes involving property management more reasonably and effectively.

Note: Hon Christopher CHUNG's amendment is marked in ***bold and italic type***.

5. Motion as amended by Hon WU Chi-wai

That ~~as for a long time~~ ***since the commencement of the Building Management (Amendment) Ordinance 2005***, disputes over property management issues ***still*** arise in quite a number of residential estates, with some owing to small property owners not being able to set up owners' corporations and others the lack of effective regulation over the operation of owners' corporations, which have led to incessant litigations and even rampant corruption and illegal practices, ***reflecting that the Ordinance cannot help resolve disputes between property owners and owners' corporations or those between property owners and property management companies***; ***at the same time, the Home Affairs Department is unable to provide the necessary assistance***; ***in this connection***, this Council urges the authorities to ***adopt the following measures***:

- (1) *to set up a building management tribunal, and transfer the cases currently dealt with by the Lands Tribunal and relating to the Building Management Ordinance to the building management tribunal for handling;*
- (2) *to review the role, manpower and workload of the liaison officers of the District Building Management Liaison Teams under the Home Affairs Department;*
- (3) *to ensure that the Home Affairs Department properly discharges the powers conferred by the Building Management Ordinance;*
- (4) *to set up a mechanism for amending the unreasonable terms and conditions in Deeds of Mutual Covenant, so as to assist property owners in managing their buildings more effectively;*
- (5) *to actively study the setting up of a vetting and approval mechanism to empower small property owners under Sub-deeds of Mutual Covenant to handle building management problems involving Sub-deeds of Mutual Covenant; and*
- (6) *to comprehensively review the existing Building Management Ordinance in an endeavor to resolve disputes involving property management more reasonably and effectively.*

Note: Hon WU Chi-wai's amendment is marked in *bold and italic type* or with deletion line.