

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2084/14-15  
(These minutes have been  
seen by the Administration)

Ref : CB2/BC/9/13

**Bills Committee on Private Columbaria Bill**

**Minutes of the seventh meeting  
held on Monday, 23 March 2015, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon IP Kwok-him, GBS, JP (Chairman)  
Dr Hon Kenneth CHAN Ka-lok (Deputy Chairman)  
Hon LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon WONG Kwok-hing, BBS, MH  
Hon Cyd HO Sau-lan, JP  
Hon CHAN Hak-kan, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon CHEUNG Kwok-che  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon WONG Yuk-man  
Hon Steven HO Chun-yin  
Hon WU Chi-wai, MH  
Hon CHAN Han-pan, JP  
Hon CHAN Yuen-han, SBS, JP  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Alice MAK Mei-kuen, JP  
Dr Hon Elizabeth QUAT, JP  
Hon Tony TSE Wai-chuen, BBS
- Members absent** : Hon Tommy CHEUNG Yu-yan, SBS, JP  
Dr Hon Helena WONG Pik-wan  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

**Public Officers attending** : Item I

Mr Christopher WONG, JP  
Deputy Secretary for Food and Health (Food)1  
Food and Health Bureau

Miss Diane WONG  
Principal Assistant Secretary for Food and Health  
(Food)2  
Food and Health Bureau

Ms Phyllis KO  
Senior Assistant Law Draftsman (II)1  
Department of Justice

Miss Cindy CHEUK  
Government Counsel  
Department of Justice

Mr YU Tak-cheung  
Assistant Director/New Buildings 1  
Buildings Department

Mr YEUNG Chun-hoi  
Senior Superintendent (Cemeteries & Crematoria)  
Special Duties  
Food and Environmental Hygiene Department

Ms Olga LAM, JP  
Assistant Director (Estate Management) (Lands  
Administration Office/Headquarters)  
Lands Department

Ms Christine TSE  
Assistant Director of Planning (Special Duties)  
Planning Department

**Clerk in attendance** : Mr Colin CHUI  
Chief Council Secretary (2) 4

**Staff in attendance** : Ms Wendy KAN  
Assistant Legal Adviser 6

Ms Catherina YU  
Senior Council Secretary (2) 4

Miss Maggie CHIU  
Legislative Assistant (2) 4

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Action

**I. Meeting with the Administration**

[LC Paper Nos. CB(3)740/13-14, CB(2)2141/13-14(01)  
CB(2)2338/13-14(07) to (08), CB(2)431/14-15 (04),  
CB(2)825/14-15(01), CB(2)910/14-15(01) and  
CB(2)1063/14-15(01)]

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

2. The Bills Committee requested the Administration to provide information on –

- (a) the compliance status of private columbaria, which were known to the Administration, in relation to land-related and planning-related requirements;
- (b) how applications for specified instruments should be handled for columbarium premises in respect of which legal proceedings had been instituted;
- (c) the meaning of the term "keeping ashes" in the definition of "columbarium" stipulated in clause 2, and whether the definition would cover premises in which ashes were placed for a short duration for ancestral worship; and
- (d) examples of other relevant considerations that were taken into account by some statutory licensing authorities in processing licence applications.

Action

**II. Any other business**

3. There being no other business, the meeting ended at 12:47 pm.

Council Business Division 2  
Legislative Council Secretariat  
9 September 2015

**Proceedings of the seventh meeting of the  
Bills Committee on Private Columbaria Bill  
on Monday, 23 March 2015, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with the Administration</i>			
000329 - 000519	Chairman	<p>Opening remarks</p> <p>Members agreed to discuss the Administration's response (LC Paper No. CB(2)1063/14-15(01)) to comments raised by Consumer Council in its submission (LC Paper No. CB(2)910/14-15(01)) when members examined the relevant clauses of the Bill.</p>	
Clause-by-clause examination			
000520 - 001808	Chairman Admin Mr WU Chi-wai	<p>Examination of Part 4 - Division 2 clauses 13 and 14</p> <p>Mr WU Chi-wai's concern about whether a private columbarium in a multi-storey building (not on the ground storey) would be granted a licence for operating a private columbarium ("licence").</p> <p>The Administration explained the eligibility criteria for applying for a licence and stressed that licence applications were subject to the fulfillment of stringent requirements.</p> <p>The Chairman's view that clauses 13 and 14 should be examined in conjunction with Schedule 2.</p>	
001809 - 002403	Chairman Admin Mr WU Chi-wai	<p>Examination of Schedule 2 – Part 1 – sections 1 and 2</p> <p>Mr WU Chi-wai's view that the Administration should assess the number of private columbaria which were located in multi-storey buildings and were unlikely to be successful in applying for a licence.</p> <p>The Administration's response that it would be difficult to make such an assessment given that there would be numerous variables.</p> <p>At Mr WU's request, the Administration undertook to provide information on the compliance status of private columbaria, which were known to the Administration, in relation to land-related and planning-related requirements. The Administration advised that the required</p>	Admin

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		<p>information had in fact been published in the Information on Private Columbaria maintained by the Development Bureau ("DEVB's List"). Part A of DEVB's List contained information on private columbaria which were compliant with user restrictions in the land leases and the statutory town planning requirements and were not illegally occupying Government land. Part B of DEVB's List contained information on other private columbaria made known to the Lands Department and/or Planning Department that did not fall under Part A.</p>	
002404 - 004027	<p>Chairman Mr WU Chi-wai Admin</p>	<p>Examination of Schedule 2 – Part 1 – section 3</p> <p>Mr WU Chi-wai's enquiry and the Administration's response regarding the relationship between the planning-related requirements under the Town Planning Ordinance (Cap. 131) and the scope of "every requirement" under Cap. 131 stipulated in section 2 of Schedule 2. He also enquired about Deeds of Mutual Covenant ("DMC").</p> <p>In response to the Chairman's enquiry about whether breaches of DMC would be a factor of consideration by the future Private Columbaria Licensing Board ("Licensing Board") for refusal of a licence application, the Administration explained the considerations relevant to determination of applications for a licence, an exemption or a temporary suspension of liability ("specified instrument") by the Licensing Board under clause 17. Under the current draft of the Bill, it would be incumbent upon the Licensing Board to take public interest into account. Separately, the Administration would keep in view developments arising from the review of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) conducted by the Home Affairs Department, ("HAD") which also touched on how the relevant licensing authority handled applications having regard to breaches of DMC.</p> <p>Mr WU's view that under the review of Cap. 349, there were proposals to address the issue of explicit restrictive provisions in DMCs, including those stipulating that commercial activities were not allowed in the buildings concerned. The Administration responded that it would make reference to the relevant proposals formulated by HAD in July 2014 and subsequent developments, in considering how the DMC issue was to be handled under the Bill.</p>	

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004028 - 004744	Chairman Mr Albert CHAN Admin	<p>Mr Albert CHAN's view that in dealing with problems arising from unauthorized private columbaria, the Administration should regard purchase of niches at private columbaria as purchase of a share of the land interest.</p> <p>Given that some applications received by the Town Planning Board ("TPB") for using the premises for columbaria purposes involved large ash interment quantity, Mr CHAN suggested that, to avoid disputes on licensing-related matters, the Administration should, at an opportune time, either cease accepting new applications pending the passage of the Bill or announce that all such applications would be rejected before the passage of the Bill.</p> <p>The Administration explained that TPB had to process all planning applications received in accordance with the relevant provisions and stipulated timeframe as provided for in Cap. 131.</p>	
004745 - 005511	Chairman Mr LEE Cheuk-yan Mr LEUNG Che-cheung Admin	<p>Mr LEE Cheuk-yan's enquiry about whether the residents of a building where a private columbarium was located would be consulted on an application for a licence in respect of the columbarium.</p> <p>The Administration's response that the Licensing Board might publish a notice of a licence application through the internet, newspapers and at a conspicuous place outside the columbarium, and the public could offer their views on the licence application to the Licensing Board.</p> <p>The Administration's response to the enquiry of Mr LEE Cheuk-yan and Mr LEUNG Che-cheung regarding the requirements applicable to structures certifiable for a pre-Bill columbarium.</p> <p>The Administration's response to Mr LEUNG Che-cheung's enquiry that if the Licensing Board considered it appropriate, the views of residents in the community would be considered in processing licence applications.</p>	
005512 - 005930	Chairman Mr WU Chi-wai Admin	Mr WU Chi-wai's enquiry and the Administration's response regarding the level of stringency of the eligibility criteria applicable to pre-Bill columbaria and non-pre-Bill columbaria with respect to licence applications.	

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005931 - 010530	Chairman Admin	Examination of Schedule 2 – Part 2 – section 4	
010531 - 011748	Chairman Admin Mr WU Chi-wai	<p>Mr WU Chi-wai's view that requirements applicable to non-compliant structures for pre-Bill columbaria stipulated in section 4(1)(b)(iii) of Schedule 2 should also be applicable to certifiable buildings for all columbaria (be these pre-Bill columbaria or otherwise) and should be included in Schedule 2 – Part 1 – section 3.</p> <p>The Administration's response that the different treatment for non-compliant structures and certifiable buildings should be seen in context as follows: non-compliant structures contravened section 14 of the Buildings Ordinance (Cap. 123), while certifiable buildings did not contravene section 14 of Cap. 123 either because prior consent / approval had been obtained or they were exempted from having to obtain such consent / approval.</p> <p>The Administration also added that non-pre-Bill columbaria must comply with the building-related, land-related and planning-related requirements provided for under the Bill as well as conditions imposed by the Licensing Board.</p> <p>The Administration's response to Mr WU's enquiry that premises intended for columbarium operation would be regarded as "columbarium use" in statutory town plans, and not general "commercial use". Besides, "columbarium use" was neither a Column 1 Use (Uses always permitted) nor a Column 2 Use (Uses that may be permitted with or without conditions on application to TPB) under residential zoning on statutory town plans.</p>	
011749 - 011959	Chairman Admin	Examination of Schedule 2 – Part 3 – sections 5 to 7	
012000 - 013922	Chairman Admin Mr James TO	<p>Examination of Part 4 - Division 2 clause 15</p> <p>Mr James TO's enquiry and the Administration's response regarding the validity period of specified instrument for columbarium premises which were occupied under a short term tenancy, and for columbarium premises which were held directly from the Administration but the structures necessary for, or ancillary to, their operation were occupied under a short term tenancy.</p>	

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		<p>At the request of Mr TO, the Administration would provide information on how applications for specified instruments would be handled for columbarium premises in respect of which legal proceedings had been instituted.</p> <p>Mr TO's enquiry and the Administration's response regarding whether a licence would be required for non-columbarium premises in which ashes were placed for a short duration, say, a few hours for ancestral worship.</p> <p>Mr TO's view that the Administration should consider whether such a mode of operation in the aforesaid premises should be covered by the Bill and whether the definition of columbarium provided under clause 2 (i.e. the interpretation clause), as far as "keeping ashes" was concerned, could cover these premises.</p> <p>The Administration's response that –</p> <ul style="list-style-type: none"> <li>(a) keeping of ashes for a short duration for ancestral worship at premises should be regulated under the Bill;</li> <li>(b) a licence applicant needed to satisfy the Licensing Board that the premises complied with the land-related, building-related and planning-related requirements; and</li> <li>(c) the Department of Justice would be consulted as to whether the meaning of the term "keeping ashes" in the definition of "columbarium" stipulated in clause 2 was wide enough for the intended purposes.</li> </ul>	Admin
013923 - 014058	Chairman Ms Cyd HO Admin	<p>Examination of Part 4 - Division 2 clause 16</p> <p>Ms Cyd HO's enquiry and the Administration's response regarding the interpretation of the term "ash interment layout" provided for in clause 10.</p> <p>Ms Cyd HO's concern about whether the licensing scheme regulating private columbaria could also regulate premises which kept a small number of sets of ashes.</p> <p>The Administration would provide information on the meaning of the term "keeping ashes" in the definition of "columbarium" and whether the definition could cover non-columbarium premises in which ashes were placed for a short duration for ancestral worship. The</p>	Admin

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		Administration also confirmed that the licensing scheme would regulate premises which kept a small number of sets of ashes.	
014059 - 014800	Chairman Admin	At the Chairman's request, the Administration explained clause 16(2)(b).	
014801 - 015241	Chairman Admin Mr LEE Cheuk-yan Ms Cyd HO	<p>Examination of Part 4 - Division 2 clause 17</p> <p>Mr LEE Cheuk-yan's enquiry and the Administration's response regarding the term "other relevant considerations" stipulated in clause 17(2)(b).</p> <p>Mr LEE's view that the term "other relevant considerations" required greater elaboration to avoid disputes on licence applications.</p> <p>The Administration's response that it would provide examples on other relevant considerations that were taken into account by some statutory licensing authorities in processing licence applications for members' reference.</p> <p>Ms Cyd HO's view that it was understandable that the term "may refuse" was used in clause 13, as the Licensing Board would be put in a difficult position if a columbarium applying for a licence failed to satisfy all requirements but the refusal of its application would involve public interest.</p>	Admin
015242 - 015834	Chairman Admin	Examination of Part 4 - Division 3 clauses 18 to 20	
015835 - 020300	Chairman Mr Paul TSE Admin	<p>Mr Paul TSE's enquiry and the Administration's response regarding the policy considerations in including general provisions in relation to an application for a specified instrument (e.g. the forms of and information required for an application (clause 18), requirements about plans accompanying an application (clause 19), etc.) in the principal provisions of the Bill rather than in the subsidiary legislation.</p> <p>Mr TSE's concern that such an inclusion might make amending the Private Columbaria Ordinance difficult in future.</p> <p>The Administration's response that it would look into the matter taking into account Mr TSE's concern.</p>	

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
020301 - 020312	Chairman	Closing remarks	

Council Business Division 2  
Legislative Council Secretariat  
9 September 2015