

立法會
Legislative Council

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LC Paper No. CB(2)2016/15-16
(These minutes have been seen
by the Administration)

Panel on Home Affairs

Minutes of meeting
held on Tuesday, 17 May 2016, at 8:30 am
in Conference Room 2B of the Legislative Council Complex

- Members present** : Hon Starry LEE Wai-king, JP (Chairman)
Hon YIU Si-wing, BBS (Deputy Chairman)
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Hon IP Kwok-him, GBS, JP
Hon Claudia MO
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, JP
Hon WU Chi-wai, MH
Hon MA Fung-kwok, SBS, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Dr Hon Kenneth CHAN Ka-lok
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon IP Kin-yuen
Hon TANG Ka-piu, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen, BBS
Hon Alvin YEUNG Ngok-kiu
- Member attending** : Hon CHAN Kin-por, BBS, JP
- Members absent** : Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP

Public Officers : Item III
attending

Mr LAU Kong-wah, JP
Secretary for Home Affairs

Miss Janice TSE Siu-wa, JP
Director of Home Affairs

Mr Jack CHAN Jick-chi, JP
Deputy Director of Home Affairs (2)

Mr Franco KWOK Wai-fan, JP
Assistant Director of Home Affairs (4)

Item IV

Mr LAU Kong-wah, JP
Secretary for Home Affairs

Ms Sandy CHEUNG
Principal Assistant Secretary for Home Affairs
(Culture) 2

Ms Michelle LI Mei-sheung, JP
Director of Leisure and Cultural Services

Mr CHAN Shing-wai
Assistant Director (Heritage & Museums)
Leisure and Cultural Services Department

Clerk in : Ms Joanne MAK
attendance Chief Council Secretary (2) 3

Staff in : Miss Karen LAI
attendance Senior Council Secretary (2) 6

Mrs Fanny TSANG
Legislative Assistant (2) 3

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I. Information papers issued since the last meeting

[LC Paper Nos. CB(2)1478/15-16(01) to (02), CB(2)1485/15-16(01), CB(2)1486/15-16(01), CB(2)1487/15-16(01) and CB(2)1488/15-16(01) to (02)]

Members noted that the following papers had been issued after the last meeting:

- (a) letter dated 28 April 2016 from Ms Claudia MO and the Administration's response;
- (b) the Administration's response to the concerns raised in the letter from Mr WONG Kwok-hing regarding the regulation of venues providing trampolining facilities;
- (c) letters dated 3 May 2016 and 4 May 2016 respectively from Dr Kenneth CHAN; and
- (d) letter dated 19 April 2016 from Mr TANG Ka-piu and the Administration's response.

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)1502/15-16(01) and (02)]

2. To avoid clashing with the Council meeting of 8 June 2016 which was expected to continue on 10 June 2016 morning, members agreed to reschedule the next regular meeting originally scheduled for 10 June 2016 at 8:30 am to 14 June 2016 at 2:30 pm. The Panel agreed to discuss the following items proposed by the Administration at the next regular meeting:

- (a) management of public open space under the Leisure and Cultural Services Department ("LCSD"); and
- (b) youth matters.

(Post-meeting note: At the request of the Administration and with the concurrence of the Chairman, the subject referred to in item (b) above was revised as "Youth development policy and the latest development of the Youth Development Fund".)

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3. The Chairman said that to enable the Council and the Finance Committee ("FC") to deal with a substantial number of outstanding agenda items before the prorogation of the Council on 16 July 2016, members' views were invited on releasing the time slot reserved for holding the regular meeting in July for holding additional Council meetings and FC meetings, if required. As no members raised objection, the Chairman said that the regular meeting scheduled for 8 July 2016 would be cancelled.

III. Outcome of the public consultation on the Review of the Building Management Ordinance ("BMO")

[LC Paper Nos. CB(2)1502/15-16(03) and (04)]

4. At the invitation of the Chairman, the Secretary for Home Affairs ("SHA") and the Director of Home Affairs ("DHA") briefed members on the salient points of the Administration's paper. The Chairman declared that she was a member of the Review Committee on Building Management Ordinance.

Discussion

Definition of "large-scale maintenance projects"

5. Mr CHAN Kin-por, Mr Christopher CHUNG, Mr WU Chi-wai and Mr Tony TSE suggested that the proposed tiered system in respect of the definition of "large-scale maintenance projects" in paragraph 12 of the Administration's paper should be revised to take into account the fact that many buildings contained as many as 10 000 or more flats. They proposed that the Administration should introduce a tiered system divided into, say, small, medium and large housing estates or "100-1 000 flats", "1 001-5 000 flats", etc., based on which different costs for the definition of "large-scale maintenance projects" should be set. They expressed concern that under the proposal in paragraph 12(i), the proposed high threshold of "40%" would mean that only projects that cost over \$100 million could be regarded as a "large-scale maintenance project".

6. Mr CHAN Kin-por further suggested that the existing tiered system in respect of the membership size of management committees ("MCs") should also be reviewed. He considered it inappropriate to impose the same membership size requirement (i.e. not fewer than nine) on a building no matter it contained more than 100 or 10 000 flats under BMO.

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7. The Assistant Director of Home Affairs (4) explained that reference was made to tiered remuneration rate of deed of mutual covenant ("DMC") managers under the DMC Guidelines issued by the Lands Department in drawing up the proposed tiered system. SHA said that members' views and comments would be considered in finalizing the relevant legislative proposals.

8. Mr CHAN Kin-por, Mr MA Fung-kwok and Mr WU Chi-wai pointed out that huge sum of cost was often involved for a large-scale maintenance project and there had been concerns and complaints regarding the ways owners' corporations ("OCs") operated when carrying out large-scale maintenance projects for buildings. They requested the Administration to consider adding more criminal sanctions to BMO to enhance the deterrent effect against unlawful acts such as bid-rigging. SHA advised that the Administration was open to any suggestion in this regard. He said that in fact, criminal investigations would be launched by the law enforcement agencies concerned into any suspected unlawful activity in the course of building management and maintenance works in accordance with the law. In addition, the Competition Commission might launch investigations into anti-competitive conducts such as bid-rigging pursuant to the Competition Ordinance (Cap. 619), and apply to the Competition Tribunal for imposing penalties. The Chairman agreed that adding more criminal sanctions to BMO might deter people from serving as MC members.

9. Mr Alvin YEUNG suggested that a seven-day cooling-off period should be introduced in respect of large-scale maintenance projects. Mr YEUNG further suggested that the Administration should consider establishing a central database in collaboration with the Urban Renewal Authority ("URA") on market prices for various maintenance items and the past performance of consultants/contractors in the market for reference by owners or OCs in planning for building maintenance works.

Convening a general meeting of an OC at the request of owners

10. Referring to the requirements in paragraph 17 of the Administration's paper, Mr Christopher CHUNG expressed concern about the difficulties encountered by owners in requesting the MC Chairman to convene an OC general meeting. He asked in the scenario that the MC Chairman did not convene a general meeting even if a request of not less than 5% of owners for convening a general meeting was received, whether the Vice-chairman or Secretary or Treasurer of the MC could take the place of the MC Chairman

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to convene the general meeting. DHA said that in such a scenario, the owners could apply to the Lands Tribunal. Mr WU Chi-wai, however, considered that in the above scenario, it should be the Home Affairs Department ("HAD") rather than the Lands Tribunal to take up the responsibility of convening and chairing the general meeting.

11. Mr CHAN Han-pan considered that measures should be proposed to resolve the situation that the operation came to a standstill due to disputes between the old OC and the new OC during their handover. He considered that in this situation, the Government should have the power to require convening a general meeting of OC. He added that the case of Allway Gardens was an example.

12. Mr WU Chi-wai suggested that copies of the financial records and statements prepared by MCs should be kept at the District Offices or the Land Registry to facilitate owners to have easy access to the information if needed.

Proxy instruments

13. Mr WU Chi-wai and Mr Alvin YEUNG supported the proposed arrangement that the maximum number of proxy instruments a person could hold should not exceed 5% of the owners. Mr WU suggested that a random checking mechanism should be put in place to ensure compliance. Mr YEUNG suggested that the name of the person holding 5% of proxy instruments should be disclosed so as to enhance transparency. He also suggested that a warning stating that "the representative was allowed not to vote according to the wish of the owner" should be shown on the proxy form.

14. Mr CHAN Kin-por considered that the proposed amendments to proxy arrangements as set out in Appendix 4 to the Administration's paper should be complemented with introduction of sanctions in order to ensure compliance. SHA said that the views and suggestions raised by Members would be considered.

Formation of OCs

15. Speaking from his own experience, Mr WONG Ting-kwong expressed concern about the difficulties of forming an OC by owners of buildings which involved complicated ownership. SHA said that the Administration

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noted such difficulties which were generally found with the single tenement buildings (i.e. the "three-nil" buildings) in old districts. He advised that through engaging property management companies to provide assistance to these buildings, HAD had succeeded in assisting some 400 in forming OCs amongst some 2 000 "three-nil" buildings in Hong Kong. Besides, HAD had recruited more than 2 000 owners/residents of "three-nil" buildings to serve as Resident Liaison Ambassadors for promoting better management of their buildings. They would assist the Government in contacting residents with a view to forming OCs in the long run.

Appointment and remuneration of DMC managers

16. Dr Fernando CHEUNG enquired whether the Administration had made any proposal to address the problem of manipulation by the major owner (e.g. the developer) in the formation of OC and in the appointment of DMC managers. SHA advised that under paragraph 7(1) of Schedule 7 to BMO, the resolution for terminating a DMC manager's appointment required a majority of the votes of the owners and supported by the owners of not less than 50% of the shares in aggregate at a general meeting of OC. To strike a proper balance between ensuring stability in building management and provision of services and allowing owners to terminate the appointment of non-performing DMC managers when needed, the Administration proposed to maintain the existing threshold for terminating the appointment of DMC managers. The Administration also proposed an additional arrangement that the term of appointment of DMC managers would be automatically terminated five years after the formation of OC. Mr WU Chi-wai considered that the threshold should be lowered to 30% of shares of owners, as section 3 of BMO only required a resolution of owners of not less than 30% of the shares for the formation of OC. He considered it reasonable for owners to terminate the appointment of the manager on the basis of the same threshold. Mr CHAN Kin-por requested the Administration to clarify whether the shares of common areas would be counted when calculating the threshold of "50% of the owners" in the context of termination of appointment of DMC managers.

17. The Deputy Director of Home Affairs (2) ("DDHA(2)") explained that it was already stipulated in the DMCs of some new buildings that only owners of shares who were liable to pay management fees would be entitled to vote in the resolution on the appointment of an MC and the formation of an OC. In addition, under section 3A of BMO, owners of not less than 20% of the shares in aggregate might apply to SHA for an order to convene

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an owners' meeting for the purpose of appointing an MC and forming an OC. Another mechanism of forming an OC is provided for under section 4 of BMO whereby owners of not less than 10% of the shares in aggregate might make an application to the Lands Tribunal for an order to convene an owners' meeting.

18. Regarding the proposed arrangement that the appointment of DMC managers would be automatically terminated five years after the formation of OC in paragraph 24 of the Administration's paper, the Chairman expressed concern that, for those buildings which were unable to form OC, the appointment of the DMC managers might continue indefinitely. She expected that there would be diverse views in the community on the proposed retention of the existing threshold for terminating the appointment of DMC managers with the support of not less than 50% of the owners.

19. Referring to paragraph 26(iii) of the Administration's paper, Mr Tony TSE considered that for small buildings (e.g. single tenement buildings), the proposed ceiling (8%) on the remuneration rate of DMC managers was rather low which might not be able to attract any DMC manager for appointment.

Enforcement of BMO and support measures

20. The Chairman considered that the effective enforcement of BMO was the most important to bring about improvements to building management work. The Chairman and Mr TANG Ka-piu suggested that the Administration should consider setting up a Building Affairs Tribunal to hear relevant cases so as to avoid incurring large amount of litigation costs to owners. They took the view that the Liaison Officers ("LOs") lacked the authority and power to resolve disputes relating to building management and maintenance. Whilst expressing support for the increase in the number of LOs from 120 to 128, Mr Tony TSE considered that enhanced training should also be provided for LOs so that they would provide better support in handling building management disputes. Mr TANG Ka-piu, Mr WU Chi-wai and Mr Alvin YEUNG and Mr CHAN Kin-por expressed support for strengthening the manpower of LOs. Mr YEUNG enquired about the manpower ratio after increasing the number of LOs to 128 as proposed by the Administration.

21. SHA said that HAD had been encouraging the parties in dispute to resolve their conflicts through mediation and other dispute resolution

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arrangements. DDHA(2) said that the Free Mediation Service Pilot Scheme for Building Management was launched in March 2015 and some 10 cases had so far been referred for the service. In addition, more than 160 applications for the Free Legal Advice Services on Building Management had been received and more than 20 cases had been referred to the Panel of Advisors on Building Management Disputes for free professional advice. SHA added that training would be provided for LOs to facilitate their effective implementation of building management work.

22. The Deputy Chairman said that consultancy firms were often engaged by OCs to handle tendering matters concerning building maintenance projects and these firms charged only a low fee. He suggested that HAD should explain clearly to OCs about matters to note in dealing with these consultancy firms, especially the compensation liability. Mr MA Fung-kwok said that many owners did not know what to do in the face of the prolonged delay of the contractor in carrying out maintenance works for their buildings. Apart from large-scale maintenance projects, Mr MA considered that measures should be taken to facilitate the monitoring of the implementation of small-scale maintenance projects which did not require tendering. He suggested that the transparency of such projects should be enhanced and channels should be made available for owners concerned to make enquiries about such projects.

23. SHA advised that the Government was determined to provide enhanced support to building owners in building repair and maintenance works. The Development Bureau was working closely with the Buildings Department, the Hong Kong Housing Society and URA to implement a number of schemes to help owners maintain and repair their buildings. URA would also launch the Building Rehabilitation Facilitating Services (Pilot Scheme) in May 2016 to enhance technical and professional support for owners, which included providing guidelines and contract samples, arranging professionals to provide independent advice, establishing a tendering platform, etc. to help reduce the risk of bid-rigging.

Way forward

24. Mr Tony TSE and Mr MA Fung-kwok criticized the Administration for its late provision of the discussion paper on this item. They considered that the Administration failed to allow adequate time for members to study the content of the paper. Mr WU Chi-wai proposed that the Panel should hold a special meeting to receive deputations' views and that the

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Administration should take into account the public views in drafting the legislative proposals. Mr CHAN Han-pan expressed support for Mr WU's proposal.

25. SHA explained that the purpose of the Administration's paper was to report on the outcome of the public consultation on the review of BMO. In fact, the Panel had received views from deputations on the proposals put forward in the consultation document in January 2015. Their views had formed part of the outcome of the public consultation. SHA assured members that the Government would carefully consider the consultation outcome when firming up the legislative proposals, and would consult the Panel again when these proposals were available. He suggested that it would be more meaningful for the Panel to invite views from deputations again at that time.

Clerk

26. In view of members' request, the Chairman agreed to conduct a special meeting and requested the Clerk to make arrangements.

(Post-meeting note: As directed by the Chairman, the Clerk wrote to the Administration on the proposed special meeting. The Administration's reply letter dated 10 June 2016 was issued vide LC Paper No. CB(2)1730/15-16(01).)

IV. Free admission to permanent exhibitions of designated museums of the Leisure and Cultural Services Department
[LC Paper Nos. CB(2)1465/15-16(01) and (02)]

27. At the invitation of the Chairman, SHA briefed members on the salient points of the Administration's paper.

Discussion

The new initiative of free admission to designated public museums

28. Members in general expressed support for the proposed free admission initiative. Mr MA Fung-kwok asked whether it was possible to offer free admission to permanent exhibitions of the Hong Kong Science Museum ("HKScM") and the Hong Kong Space Museum ("HKSpM") to the public as well.

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29. Director of Leisure and Cultural Services ("DLCS") replied that in light of the experience during the free admission period under the "Appreciate Hong Kong" Campaign in January 2016 and given the larger number of interactive exhibits in HKScM and HKSpM, the Administration had to pay heed to their capacity constraints in determining the number of visitors the museums could accommodate under the new initiative in order to keep the interactive exhibits in good condition and to ensure a safe and pleasant museum visit for visitors. DLCS explained that it was proposed to offer free admission to permanent exhibitions of HKScM and HKSpM only for full-time students after taking into consideration the capacity constraints of HKScM and HKSpM, as well as the objective of enhancing the promotion of science and astronomical knowledge among students. Nevertheless, the current concessionary half-fare admission would continue to be offered to persons aged 60 or above as well as disabled persons and one accompanying carer of each disabled person. The existing mechanism for fee-waiver applications would remain valid for schools, charitable and non-profit making organizations. The arrangement for free museum admission on Wednesdays and International Museum Day, Hong Kong, would also be maintained.

30. Noting that the estimated annual revenue foregone arising from the proposed free admission initiative amounted to \$11.3 million, Mr MA Fung-kwok asked whether savings would be achieved from the reduction of manpower required for ticketing under the new initiative. Mr IP Kin-yuen reminded the Administration that additional maintenance costs of the exhibits might be incurred after implementation of the new initiative, which should also be taken into account. Mr Christopher CHEUNG expressed concern about the measures to be taken to help control the visitor flow in anticipation of a large increase in the number of visitors to the permanent exhibitions of the designated museums under the new arrangements. DLCS assured members that appropriate measures would be taken when necessary to step up control of visitor flow at the designated museums. She added that additional funding had been allocated to LCSD to cover costs for additional service requirements on security, cleansing, technical and maintenance services in anticipation of an increase in attendance and breakdown rate of exhibits upon implementation of the new initiative.

Audience building and enhancement of museum facilities/services

31. Mr IP Kin-yuen urged LCSD to enhance the attractiveness of exhibitions and to collaborate with educational bodies such as the Hong

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Kong Professional Teachers' Union to organize more museum visits for building a wider audience base. SHA said that LCSD was committed to bringing in the rich cultures of the world to Hong Kong by presenting special exhibitions, such as *Claude Monet: The Spirit of Place*, which was well received by the public, and it would be followed by *Mare Nostrum: Roman Navy and Pompeii*. He added that members were welcome to give suggestions on enhancing the services of LCSD museums.

32. Mr CHAN Han-pan suggested that the exhibits of HKSpM should be renewed to showcase the latest developments in space science and astronomy. DLCS said that HKSpM was currently under renovation and it would afterwards showcase advanced technology in relevant fields and bring exciting experience to visitors. Mr TANG Ka-piu considered that the audio facilities of LCSD museums should be improved to enhance enjoyment of the exhibitions. DLCS said that LCSD museums had applied use of apps technology to enhance the service of guided tours.

33. The Deputy Chairman suggested that consideration might be given to allocating quota of the service of guided tours to travel agencies as most tourists would prefer to have such service when visiting museums. He further suggested that museums might organize more thematic exhibitions on local cultural characteristics as tourists would be interested. The Chairman suggested that the Administration should further promote history, science, art and culture to the public by organizing exhibitions and programmes of such themes in public parks. She also urged the Administration to step up audience building measures and publicity efforts to promote museum services.

34. SHA said that LCSD had organized many successful exhibitions featuring local culture, such as *Bruce Lee: Kung Fu • Art • Life*. In addition, a permanent Jin Yong Gallery would be open at the Hong Kong Heritage Museum, and *The Hong Kong Story* exhibition at the Hong Kong Museum of History ("HKMH") would be renewed. DLCS said that LCSD would be pleased to collaborate with the tourism sector and the Hong Kong Tourism Board in promoting the exhibitions and programmes of LCSD museums. She added that LCSD also collaborated with schools and community organizations to promote the exhibitions and programmes of museums. For instance, a mobile education truck was used to visit schools in different districts as part of an outreach programme by the Hong Kong Museum of Art for widening the audience base.

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35. Mr CHAN Chi-chuen considered that there was room for boosting the attendance of museums. He asked whether consideration would be given to offering local residents free admission or discounts for visits to non-permanent exhibitions of LCSD museums. Mr TANG Ka-piu expressed support for the suggestion. DLCS explained that at present, a nominal fee was charged for visits to major special exhibitions to recover part of the administrative and other relevant costs.

36. Dr Kenneth CHAN suggested that LCSD should conduct a study on the profiles of museum goers including their average time of stay and their favourite exhibitions, and gauge their views and suggestions on museum services and facilities. Other museum services and facilities such as cafeterias and gift shops should also be improved as far as possible. DLCS said that LCSD had conducted opinion surveys in 2010, 2013 and 2016 for museum goers. According to the survey in 2013, over 90% of the interviewees indicated that they found their visits satisfactory or very satisfactory.

37. Mr TANG Ka-piu requested the Administration to outsource the security guard service of LCSD museums to social enterprises specializing in rehabilitation services for disabled persons. DLCS said that outsourced service contracts of LCSD were prepared in accordance with the established procedures of the Government. Currently, a cafeteria in HKMH was also run by a social enterprise. She agreed to relay Mr TANG's suggestion to the relevant Department for consideration.

Admin

V. Any other business

38. There being no other business, the meeting ended at 10:31 am.