

## **LC: Building Management (Amendment) Bill**

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Following is the speech by the Secretary for Home Affairs, Dr Patrick Ho, in moving the second reading of the Building Management (Amendment) Bill in the Legislative Council today (April 27): (translation)

Madam President,

I move the second reading of the Building Management (Amendment) Bill 2005.

The primary aims of the Amendment Bill are to rationalise the appointment procedures of a management committee, assist owners' corporations in performing their duties and exercising their powers, and safeguard the interests of property owners.

The Administration enacted the Multi-storey Buildings (Owners Incorporation) Ordinance in 1970, which built up a legal framework for matters on building management and owners' corporations. Since then, there has been increasing public awareness over these matters. In order to further improve the Building Management Ordinance (BMO) to cope with the change in time, as well as to better facilitate owners' compliance with the requirements concerned, we have drafted the Building Management (Amendment) Bill after making reference to all the experiences gathered over the years and the relevant court judgments.

The case of Albert House, Aberdeen, was most unfortunate. Yet from a positive perspective, it has helped highlight to property owners the management and maintenance conditions of their buildings. It has also brought to their attention the importance and urgency of procuring third party risks insurance for the common parts of buildings. The Building Management (Amendment) Ordinance 2000 already introduced a new section to require that an owners' corporation shall procure and keep in force in relation to the common parts of the building a policy of insurance in respect of third party risks. In order to take forward this new provision, we have attached to the Bill a draft Regulation outlining the details of mandatory procurement of third party risks insurance on the part of owners' corporations.

After thorough discussions with the insurance industry, we propose to require that the insured amount of each policy should be not less than \$10 million per event in respect of the liability for a third party's bodily injury and death. The requirement would take effect 12 months after the subsidiary legislation has been made. We will strongly encourage owners and their corporations to carry out repair works to their buildings expeditiously before the commencement of the Regulation. At the same time, we will work closely with the Housing, Planning and Lands Bureau, the Buildings Department, the Urban Renewal Authority and the Hong Kong Housing Society to assist buildings in carrying out renovation works.

Apart from the Regulation on insurance, the Amendment Bill also includes other amendments. I would like to explain the more important ones here.

According to the existing section 3 of the BMO, a management committee may be appointed at a duly convened meeting of the owners in accordance with the deed of mutual covenant; or if there is no such deed or the deed contains no provision for the appointment of a management committee, by a resolution of the owners of not less than 30% of the shares. The present provision raises doubts over whether an owners' corporation should be formed in accordance with the deed of mutual covenant or the BMO. For this reason, we propose to stipulate clearly in the BMO that for a management committee to be formed under the BMO, the owners have to follow the procedures set out in the BMO, instead of the deed of mutual covenant.

Another matter that draws particular attention is the procedures for owners in appointing proxy to attend owners' meetings. Requirements for the appointment of proxy are not clearly stipulated in the present BMO, thus causing disputes among owners. We propose to set out in the BMO the absolute deadline for submission of proxy at 24 hours before the owners' meeting. This will allow owners' corporations sufficient time to check and verify the information contained in proxy instruments received. We also propose to include in the BMO a standard format of proxy instrument for the usage of owners and owners' corporations.

Furthermore, the Amendment Bill aims to strengthen the financial control over owners' corporations and building managers, meaning property management companies. We will stipulate in the BMO that any procurement of goods or services by the owners' corporations and building managers with a value exceeding \$200,000 or 20% of the annual

budget of the corporation shall be done through tendering; and that any tender of a value exceeding 20% of the annual budget of the corporation shall be endorsed by a resolution of the owners at a general meeting. We further propose to require managers to open and maintain one or more segregated trust or client accounts for holding money received in respect of the management of the building with the owners' corporation as the client. These proposed amendments would help safeguard the interests of owners.

In addition, to ensure that the liability of an owners' corporation will not be transferred to an individual member of a management committee, we propose to add a new section in the BMO to the effect that management committee members of an owners' corporation acting in good faith shall not be held personally liable for any act done or default made by or on behalf of the corporation. We hope that this amendment would encourage more owners to participate in building management matters.

I mentioned the case of Albert House, Aberdeen earlier in my speech. I am aware that Legislative Council Members and the general public are all concerned about the case. I would therefore like to take this opportunity to update all of you the latest development. With the assistance of the Hong Kong Housing Society, all Albert House owners are provided with a special loan arrangement to meet with their civil liabilities. The Assessment Panel chaired by Professor Nelson Chow Wing-sun had already considered all the applications on an objective and fair basis. Consequently, all residential owners of Albert House were recommended for an interest-free loan of HK\$200,000 with a flexible repayment period varying from one year to life. The Hong Kong Housing Society has already issued early this week, through their representing lawyers, documents about the loan agreement to owners. Here, I would like to specially thank the Hong Kong Housing Society for its conscientious generosity. In parallel, Mr Chan Bing-woon and Mr Roy Cheng of the Hong Kong Mediation Council has also rendered assistance by providing mediation services to the creditor and individual Albert House owners. The Council has facilitated communications between the two sides, allowing them to reach a consensus on the question of clearing debts and discharging civil liabilities of owners with an understanding and compromising spirit. This signifies the resolution of an issue that has lingered on for more than a decade. I would like to thank the Legislative Council members and District Council members concerned for the help it has rendered in the event.

The content of the Amendment Bill has been thoroughly discussed in the Legislative Council Panel on Home Affairs. The public has also raised invaluable comments during

the consultation period. I have to thank specifically the property management industry, all relevant professional bodies and organizations for providing us with their insightful views. I sincerely hope that all proposals could be put in place as soon as practicable, bringing conveniences to owners. Here, I would like to solicit all Members' support in passing the Amendment Bill.

Thank you Madam President.

End/Wednesday, April 27, 2005