

LETTERHEAD OF THE LAND REGISTRY

CB(1) 753/00-01(02)

In reply please quote this Ref.: (31) in LR/HQ/101/20 Pt.17

5 March 2001

Your Ref.:

Tel.: 2867 8002

Mr. Lau Wong Fat
Chairman
Heung Yee Kuk
47, Cumberland Road
Kowloon Tong
Kowloon

Fax: 2338 3125

Dear Mr. Lau,

**Re: Proposed Amendments to the
Land Registration Ordinance & Regulations**

I refer to your letter of 28 February 2001 addressed to the Chairman of the Bills Committee of the Legislative Council on the Land Registration (Amendment) Bill 2000, a copy of which has been sent to the Land Registry.

First of all, I wish to thank you again for your support of the proposed amendments all along. Many of the issues raised in your letter had already been covered in our reply of 4 October 2000 to your earlier letter of 30 August 2000 and our subsequent meeting held on 24 November 2000.

Apart from the points covered in our previous correspondence, the Administration wishes to elaborate further on the issues raised in your letter of 28 February 2001 as follows -

(1) Removal of entries of instruments withheld from registration

You propose that the withheld or temporarily withdrawn instruments should be removed after 6 months. The Administration is of the view that the lodging solicitor may not have sufficient time to deal with the outstanding issues or arrange for the rectification of mistakes by the parties in six months. One year is a reasonable period so that the lodging solicitor will have sufficient time to deal with the outstanding issues stated in the stopped deed note.

Furthermore, a stopped deed which has been removed will not get any priority under the Land Registration Ordinance. As there are such consequences upon the removal of a stopped deed, the Administration would prefer to adopt a prudent approach at first and allow one year, as originally proposed, to the applicants before considering the removal.

(2) **Verification of Memorials**

Section 61 of the Schedule of the Land Registration (Amendment) Bill proposes to amend Regulation 7(c) of the Land Registration Regulations. Regulation 7(c) of the Land Registration Regulations states that where the memorial has been prepared in the Land Registry, the memorial shall be verified by the certificate of the Land Registrar.

At present, the Land Registry prepares the memorial for Government Departments only. The proposed amendment is to make it clear in Regulation 7(c) that the memorial will be prepared in the Land Registry for a Government department.

The verification certificate forms part of the memorial which is available for public search.

(3) **Copy Instruments**

The Land Registry will only accept for registration a limited category of certified copy instruments which have to be certified in a specific manner to the satisfaction of the Land Registry. The instruments will have to be certified either by the solicitor or the issuing authority. The certification process should be a sufficient measure to prevent registration of fraudulent copy instruments.

The Land Registry will issue the Land Registry Circular Memorandum from time to time notifying the legal practitioners and other clients of the certification methods. It is now also proposed that the Land Registrar shall have the power to declare in a Schedule to the Land Registration Regulations the list of certified copy documents acceptable for registration.

(4) **Memorial Day Book**

The Memorial Day Book is a record maintained mainly for

research and statistical purposes showing all the instruments lodged for registration on a particular day. The information in the Memorial Day Book is also posted to the land registers. The actual land register will still show the names of the parties and the owner may conduct a search on his own property to ascertain these names.

(5) **Others**

1. **Copy of instruments withheld from registration**

You propose that the copies of the instruments withheld from registration should be provided to interested parties. As the registration of the instruments withheld from registration have not yet been completed, the instruments withheld from registration are not public documents and the Land Registry does not have the statutory authority to provide copies of the instruments to the interested parties.

If the owner or his legal representative wishes to obtain the copies of the documents, they should approach the person who had submitted the documents. As the persons who submit the documents are, in the majority case, solicitors firms, the Land Registry will consult the Law Society on this issue and request the Law Society to impress upon its members to provide the copy instrument to other persons who wish to obtain the copy.

Furthermore, a deed which is pending registration may not be the final form of the document which is to be registered. The parties have the right to withdraw the pending deed from registration and may make amendments to the document. We do not consider it appropriate for the Land Registry to provide copies of a document which may not be in final registration form or which may be withdrawn from registration.

(2) **Establishment of a Summary Procedure**

You propose that a Tribunal, for instance, a Land Registration Tribunal, be established to adjudicate on the issues arising from registration.

The Land Registry is now vested with the function of registration under the Land Registration Ordinance. The Land Registrar has the power and the authority to discharge all his duties under the Land Registration Ordinance including the decision on whether an instrument is registrable under the Ordinance.

If any party is not satisfied with the decision of the Land Registrar on matters relating to land registration, the party may seek for redress from the Courts. We do not consider that a separate tribunal need to be set up to adjudicate on land registration issues.

(3) Informing the property owner

The Land Registry is an office for registration of instruments which affect land. The Land Registrar has the power and the authority to decide on the registrability of a document. We see no reason to inform the property owner each time a document is lodged for registration against the property.

Furthermore, the volume of the document intake is quite large. For the year 2000, 685,775 documents were lodged for registration. In the year of 1997, 990,566 documents were lodged for registration. If an extra step of informing the property owner is included in the registration procedures, the time for registration will be prolonged unnecessarily.

Yours sincerely,

(Mrs. Alice LEE)
Registry Manager
for Land Registrar

c.c. Clerk to Bills Committee, Legislative Council
(Attn: Mrs. Mary Tang) Fax: 2869 6794
Secretary for Planning & Lands (Attn: Mr. Geoffrey Woodhead) Fax: 2899 2916