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Secretary for Security
(Attn: Mr. David WONG,
Prin. Assistant Secretary(S)B)
Security Bureau
6/F Main and East Wings
Central Government Offices
Hong Kong

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BY FAX

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Dear Mr. Wong,

Fire Safety (Buildings) Bill

Thank you for your letter of 19 April 2001. I would like to seek your further clarifications on the following -

Clause 3 - definition of "domestic purposes (住用用途)"

2. Could the Administration elaborate on why they considered the current drafting is in order? I would have thought that the Chinese term "住用用途" would mean "作為居住用的用途" which is repetitious in meaning. Could this be avoided, say, by using the term "住宅用途" which is a term more commonly used?

Clause 7

3. If it is the policy intent that the Court "should take into account the property rights of the owners" and that "occupants rendered homeless by Government's statutory actions will be offered alternative housing accommodation by the Housing Department" (as suggested in the last two paragraphs of your letter on Clause 7), would it be better to express the policy intent in clearer terms? The present wordings in clause 7(6)(d), if narrowly construed, may not serve your purpose. In section 119E(1)(b)(ii) of the Landlord and Tenant (Consolidation) Ordinance (Cap.7), the Lands Tribunal has to satisfy that " in all the circumstances of the case, including the question whether other accommodation is available for the principal tenant or sub-tenant " as one of the grounds in refusing a new tenancy to a principal tenant and a sub-tenant (i.e. to evict a principal tenant and a sub-tenant from domestic premises).

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Clause 8(1)(a)(iii)

4. To empower the relevant authority may at any time and for any reason to cancel any permission may give people an impression that we are enacting an arbitrary law. Since "as a matter of good practice, the enforcement authority would cancel the permission in writing and give reasons", would the Administration consider amending the wordings to, say, "by notice in writing with reasons therefor"?

Follow-up questions after the Bills Committee meetings

Clause 5(10)

5. During the meeting held on 25 April 2001, a member has asked that if it is the policy intent that an advisory committee is to set up under Clause 5(10). If yes, should the word "shall establish a committee" be used instead of "may establish a committee"?

Schedule

6. During the first meeting of the Bills Committee, a member has asked on the legal effect of the Codes of Practice. In this Bill, the Codes of Practice are incorporated in the Schedules. They are statutory requirements that an owner has to comply with. Would the Administration provide copy of those Codes of Practice to our members and brief them on their contents?

7. I would be grateful if you could let me have your reply in both English and Chinese on or before 24 May 2001 so that your reply can be circulated to members before the next meeting.

Yours sincerely,

Anita HO
Assistant Legal Adviser

c.c. Department of Justice (Attn: Mr. William MADDAFORD, SALD
and Mr. Vidy CHEUNG, SGC)

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