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

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Dear Mr Wong,

Fire Safety (Buildings) Bill

I refer to your second reply in relation to the above Bill and would like to seek your further clarifications on the following clauses.

Clause 3 - The Chinese term of "domestic purposes" as "住用用途"

2. The term "住宅用途" is the Chinese expression used for the term "domestic purposes" on P. 302 of the "The English-Chinese Glossary of Legal Terms" which is published by the Department of Justice. This term is adopted in section 8(1)(b) of the Government Rent (Assessment and Collection) Regulation (Cap. 515A). Should the term used in the Glossary be adopted? Further, I do not think that the English term "domestic" means "用" in Chinese.

Clause 7 - District Court may make orders prohibiting occupation of a building

3. When introducing the Fire Safety (Commercial Premises) (Amendment) Bill 1998, Clause 7A reads as "... the District Court may make an order prohibiting the occupation of the specified commercial building".

4. During the discussion at the Bills Committee of that Bill, Members pointed out that "as a matter of fairness, prohibition orders should apply only to owners or occupiers of a specified commercial building who failed to comply with the requirements. A prohibition order should not affect those who abided by the requirements." (See paragraph 4 of the Minutes of the meeting held on 2 March 1998 (PLC Paper No. CB(2)1419.)

5. The Administration accepted the Members' comments and when it introduced a CSA, it explained in a letter from the Administration to Assistant Legal Adviser to the Bill dated 13 March 1998 that "Should the circumstances warrant the application of a prohibition order to the whole of a building, the authorities will make several applications to the District Court for the different units and parts of the building concerned."

6. The section now reads as "the District Court may make an order prohibiting the occupation of the unit or part". Why is there a different treatment in this Bill?

Clause 8(1)(a)(iii) - Would the phrase "at any time and for any reason" be regarded as arbitrary?

7. I note that you seem to agree that the existing wordings may appear to be arbitrary. Based on the principle of fairness, should reasons be given for the Administration's decision? Further, would "for public safety" itself is a reason?

8. I would be grateful if you could let me have your reply in both English and Chinese languages on or before 11 October 2001, if possible.

Yours sincerely,

Anita HO
Assistant Legal Adviser

c.c. Department of Justice (Attn: Mr. William MADDAFORD, SALD and
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