

Ref. LR/HQ/101/20 XXIV

14 June 2002

The Hon. Albert Chan Wai-yip
Chairman
Bills Committee on
Land Registration (Amendment) Bill
c/o Board B, 2/F Kapok Mansion
123 Castle Peak Road
Tsuen Wan
New Territories

Land Registration (Amendment) Bill

I share the Law Society's strong view as to the need for provision to remove long outstanding stopped deeds from the registry. I have given them the same undertaking I have given to you to bring this provision forward in legislation as fast as possible.

My understanding is that the Bills Committee also supports having powers to remove stopped deeds. But, if the stopped deeds section remains in the present bill, then, until I am able to give assurance as to the Bar Association's position on the effect of these provisions and resolve the question of whether they should be in the principle ordinance rather than regulations, the Members of the Bills Committee would be unwilling to see that bill proceed.

I have not yet had a response from the Bar Association. I know they have been canvassing views and expect to be able to reply shortly but I have no indication as to their likely position.

If we wait, we are faced with the prospect of my policy Secretary not being able to give the Legislative Council the notice required to be able to resume the readings of the bill in the current session. The whole bill, not just the provisions on stopped deeds, will then be deferred until the next session.

The consequences of such delay will be that all the benefits of the bill for the very large numbers of people who use our services will be delayed. These benefits include greatly improved service delivery times, internet access to information and organization changes that will help keep down costs to clients even as we introduce better quality services.

I will do all I can to ensure that agreement is reached on the stopped deeds provisions and that the necessary legislation is made ready in time for the beginning of the new session. I see no reason why this is not possible. It would mean that the stopped deeds provisions would be enacted at least as quickly as if we were to delay the whole bill while the remaining questions on this point are wrapped up.

I fail to appreciate why the Law Society should characterize my reason for wanting to ensure that the main provisions of the present bill are passed in the current session as "commercial", as if this were my priority or indeed an improper consideration.

My priority is to improve the services that the Land Registry and our partners - among them the members of the Law Society - can give to our clients. The costs we have to pay for new systems and the time taken to bring them into operation translate directly into our ability to meet our clients expectations for services and into the level of charges needed to provide them.

The provisions to remove stopped deeds will improve services for a significant number of clients but I do not see how anyone can reasonably argue that it makes sense to delay other major service improvements for tens of thousands of clients. Delaying these other provisions will have no bearing whatever on the speed with which the powers to remove stopped deeds now can be made and given effect.

I regret not having considered to involve the Bar Association earlier in this matter and any anxiety caused to you or the members of the Bills Committee by this letter from the Law Society. However, in view of the points made above, I do recommend that the approval of the House Committee for the bill without the stopped deeds provision be sought this afternoon, on the understanding that I have given my pledge to bring this provision back before the Council with all possible speed.

(Kim Salkeld)
Land Registrar

c.c. The Hon. Selina Chow, Chairman of the House Committee
 The Hon. Ms. Margaret Ng, Chairman of the Lego Panel on
 Administration of Justice & Legal Services
 Mr Simon Ip, President, Law Society of HK
 Ms. Wendy Chow, Law Society of HK
 Ms. Christine W S Chu, Law Society of HK
 Mrs. Mary Tang, Clerk to Bills Committee, LegCo
 Secretary for Planning & Lands (Attn: Ms. Peggy Chan)

THE

LAW SOCIETY OF HONG KONG

香 港 律 師 會

Agenda item VI(b)
會議議程第 VI(b)項

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13 June 2002

The Hon. Mr. Albert Chan Wai-yip
Chairman of the Bills Committee on
Land Registration (Amendment) Bill 2000
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road,
Central, Hong Kong.

Dear Mr. Chan

Bill Committee on Land Registration (Amendment) Bill 2000

I refer to the above Bill particularly the legislative proposal under the new Regulations 15(6) to 15(12) (inclusive) and 15A of the Land Registration Ordinance to empower the Land Registrar to remove any stopped deed that has been withheld from registration for a certain period.

The Society understands that the Bills Committee has requested the Administration to consult the Bar Association on this legislative proposal. As the Bar has indicated that they will not be able to revert until 15 June, the Land Registrar has proposed for the Bill to be proceeded with without the provisions regarding removal of stopped deeds.

As stated by the Land Registry in its Consultation Paper on the draft Land Registration (Amendment) Bill in 2 August 2000, there are more than 2000 deeds being "stopped" for more than one year with the longest case being held pending for registration since 1967. Without removal of these deeds from the Land Register, it is obvious that owners of these properties will suffer.

The Society takes a strong view about the Land Registrar's present proposal to drop the relevant provisions concerning the removal power and procedure bearing in mind that long before the Bill was introduced in 2000, the Society has repeatedly requested that such procedure be put in place. The Society's Property Committee has also promptly considered and given its views on the relevant provisions during these 2 years on numerous occasions. The Committee is indeed disappointed that after all these years of effort, the interests of the public is to be sacrificed for commercial necessities, the problems of stopped deed appearing on the Land Register should be allowed to continue and the legislative amendment is now proposed to be dropped.

Given that it is against public interest for this issue to be delayed any further, the Committee will be liaising with the Bar Association and the Administration, to try to agree on a revised form of legislative proposal. The Society hopes that the LegCo will keep this legislative proposal on its agenda for consideration and enactment without any further delay.

Yours sincerely,

Christine W. S. Chu
Assistant Director of Practitioners Affairs

c.c. The Hon. Selina Chow Liang Shuk-ye, Chairman of the House Committee
The Hon. Ms. Margaret NG, Chairman of the LegCo Panel on Administration of Justice & Legal Services
Mr. Simon Ip, the President
Ms. Wendy Chow, Chairman of the Property Committee