

HKIS – NOTES

Presentation to Legco – 30th June 2005

1. Protection for Management Committee (MC) Members acting in good faith.

Our views underline the responsibilities that election to an MC brings.

There are clear duties by MC members to owners, especially as they deal with residents funds and maintenance of buildings. Renovation costs routinely cover millions of dollars, buildings must be maintained properly.

‘Acting in good faith’ or acting in a sincere manner could absolve members of their duties to other owners, to deal with issues in a proper manner. Acting in good faith would weaken the care and attention needed for the proper running of a building, allowing avoidance of responsibility.

Owners corporations are unlimited companies. The Management Committee should operate in a proper manner. Section 8(2) of the ordinance emphasizes “Owners shall be a body corporate”, “capable of suing and being sued”.

Section 29 – “The powers and the duties of the corporation imposed by this ordinance shall be exercised and performed on behalf of the corporation by the management committee”.

Section 32 – “Upon winding up, reference to a director shall be deemed to be reference to a member of a management committee”.

There are more relevant sections underlining the formality of a management committee.

Suggested solutions:-

- (a) Take out indemnity insurance.
- (b) Employ a professional manager.
- (c) Proper training for management committee members.
- (d) All owners to be advised of the consequences and liabilities of the set up of an owners corporation.

2. Qualification of MC Members

We would also block voting for owners who have not paid management fees.

3. Procurement by OC's and Managers

- Code of Practice is adequate, as it stands, not being mandatory.
- What is proposed is bureaucratic, and will block rather than help.
- Many contract such as lift maintenance, cleaning, owners prefer, on good grounds to renew contracts rather than tender.
- No relation to day to day management needs.
- For large scale projects, proper qualified and registered contractors must be used.

4. **Procurement of Third Party Risk Insurance**

The amount suggested is too low. In the light of market practice and experience, particularly the recent Albert House case, in Aberdeen.

Actual insurance cases:-

Swire Properties Residential minimum \$30m

Savills minimum \$50m

Jones Lang LaSalle: \$30m for average, \$50m for premium buildings.

Kai Shing \$30m average

There will be difficulties, we would suggest help for more needy owners, e.g. a bulk insurance policy initiative. Consideration will also have to be given to cases where unauthorized building works (UBWs) are present. Currently insurance policies do not cover incidents involving such.

HKIS

29th June 2005