



香港房屋經理學會
The Hong Kong Institute of Housing

By Fax (2509 9055) and By Mail

Your Ref.: CB2/SS/11/06

Our Ref.: HKIH/0035-07/ CW/WSS

22 October 2007

Hon Mr James TO Kun-sun
Chairman of the
Subcommittee on Building Management
(Third Party Risks Insurance) Regulation
Legislative Council Building
8 Jackson Road,
Central, Hong Kong

Dear Mr To

Building Management (Third Party Risks Insurance) Regulation

We thank you for your letter dated 15 October 2007 drawing our attention to the proposal of enforcing the above pending regulation.

We support in principle the above-said proposal that in our views it is so important that it should be in place as soon as possible because of the obvious public interests in protecting the general public safety concern.

However, we would suggest you to consider the following:

- (1) The proposal targets the owners corporation (OC) only but that account for less than half of the private properties in Hong Kong. We wonder whether you would extend to cover those without the OC because unfortunately many of them are ageing buildings (especially that situate in old districts, e.g. Shamshuipo and Yaumati, etc.) that require the most urgent need to be covered under the third party risks insurance. We would strongly recommend you to legislate a "territory wide cover law" like the Buildings Ordinance, Cap 123, that embraces ALL buildings of Hong Kong notwithstanding there is or without the OC existed in the concerned building.
- (2) Anything being compulsory will mean serious and should have consequence of those failing to comply with. In common law, it is the responsibility for the prosecutor to prove the wrongdoer guilty instead of the defendant proving himself innocent. Besides, it would be the office bearers (e.g. Chairman, Secretary, and Treasurer) responsible for the day-to-day operation. It would be unfair for any non-office bearers Management Committee Members held responsible for the



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non-compliance. However, we do not see the proposal detailing the mechanism of that failure case to procure the statutory insurance requirement in line with the common law spirits. In addition, the turnover of the Management Committee Members is quite high that may give rise to the complicated "contributory negligence" problem if assessment of individual responsibility is required according to your consultation bill. We would be delighted to comment if you would have any further supplement on this.

Should you require further details of the above suggestion, please feel free to contact me or our Miss Gloria Chung on 2544 3111.

Yours sincerely
For and on behalf of
The Hong Kong Institute of Housing

Cliff Wong
President