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15 January 2007

With Chinese Translation

Ms. Joyce Wong
Director of Practitioners Affairs
The Law Society of Hong Kong
3/F Wing On House
71 Des Voeux Road Central
Hong Kong

Dear Ms. Wong,

Procedure to obtain physical possession of premises

I refer to our (Wong / Cheng) recent telephone discussion concerning the matter raised by the Law Society with the LegCo Panel on Administration of Justice and Legal Services (“AJLS Panel”) in May 2004 on the time taken to repossess premises subsequent to the issue of the court order referring to one particular case.

2. At about that same time, a solicitor broached a very similar issue with the Judiciary, expressing his concerns about the time taken to repossess premises. We had investigated into the matter and had replied to the solicitor concerned. Apparently, it was then considered that the issue raised by you in your letter of 21 May 2004 in relation to one particular case was the same as the issue raised by the solicitor. As the points raised therein were addressed, we had not replied to your letter separately. This misunderstanding was unfortunate and much regretted.

3. I understand from your goodself that the specific case as referred to in your letter of 21 May 2004 could not now be identified, and that the issues raised therein had long been addressed. Nevertheless, I propose to set out below in general terms as to the measures taken by the Judiciary since mid-2004 to address the matters raised in previous correspondences.

4. First, it should be noted that considerable efforts have been made to improve and streamline the procedures on application for repossession of premises during the past two years. The following administrative measures are relevant: -

- (a) One of the issues raised was in relation to the requirement for the posting of notice of proceedings for 3 consecutive days upon the main door or entrance to the suit premises *after* judgment has been given to give 7 days' notice of judgment to the occupiers of the premises. As you are aware, since 21 February 2005, the Lands Tribunal has introduced a new practice to permit such notice to be posted up either before or after judgment has been given. Early posting up of the notice before the court judgment would save a period of 7 days;
- (b) As to the submission of draft and approval of the writ of possession, the Judiciary has made improvement to the process and the time between submission of draft and approval has now been kept within 10 days; and
- (c) As regards the average waiting time for executing writs of possession by the Bailiffs in the Judiciary Administration, considerable improvements have been made during the past 2 years, and the average waiting time is now being maintained within 20 days.

5. Apart from the various administrative measures set out above, we have consulted the Law Society in the past two years on proposed legislative amendments to streamline the application procedures for the repossession of premises. One of the proposals is to reduce the period for filing and service of notice of opposition in all possession claims in the Lands Tribunal from 14 days to 7 days. This can produce a saving of 7 days in the repossessing procedure. The Law Society has given its support to these proposals and the draft amendment rules to give effect to them. The Lands Tribunal (Amendment) Rules 2006 were gazetted on 29 December 2006. Subject to the Legislative Council's approval of the Amendment Rules by negative vetting, the Judiciary aims to bring the Amendment Rules into operation in April 2007.

6. You would see from the above that the Judiciary is committed to bringing about continuous improvements to the procedure for repossession of premises by legislative and administrative means. We are grateful to the Law Society's support to these improvement measures, and look forward to its continuous support.

Thank you for your attention.

Yours sincerely,

(Augustine L.S. Cheng)
for Judiciary Administrator

c.c. Mrs. Percy Ma,
Clerk, LegCo Panel on Administration of Justice and Legal Services