

THE HONG KONG AIR CONDITIONING AND REFRIGERATION ASSOCIATION LIMITED

香 港 空 調 及 冷 凍 商 會 有 限 公 司

Room 1801, Tung Wai Commercial Building,
109-111 Gloucester Road, Wanchai, Hong Kong
Fax : (852) 2519 0298
Web Site : www.acra.org.hk
E-mail : acrahk@hk.net

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Building Energy Efficiency Bill
Views Presented to Bills Committee Meeting on 9 Feb 2010

ACRA welcome and support the government's green initiative and policy to preserve and sustain the environment in the fight against global warming and climatic change. Trusting the legislation and enactment of the Buildings Energy Efficiency Bill and its bylaws to enforce the requirements of energy efficiency to be achieved and maintained in the buildings are big step forward winning consensus and support from the society at large. We are in support of the government in the implementation and enforcement of this legislation for the wellbeing and greener Hong Kong.

We however would like to submit our views on the following areas of concern:

Ground for Refusal in Issuing a Certificate of Compliance

There are only two reasons provided in Section 10(2)(a) and 10(2)(b), false or misleading declaration or document submission under Section 9(2)(c); or the Director has yet to receive any information or document from the applicant under Section 9(4) for the purposes of considering the making of the declaration.

There is no effective provision in the Bill to empower the Director to refuse on the strict ground of non-compliance with the by-laws, for example compliance with the requirements of the Building Energy Codes is not supported by the certification given by the registered energy assessor. The authority of the Director is confined to require the applicant to furnish further information or produce additional document, thus opening an opportunity for abusing the procedural submission but not submitting information in support of compliance for award of Certificate of Compliance.

Reasons for Supporting an Application for Exemption

The transparency and fairness of returning with reasons in support of refusal on issuance of Certificate of Compliance in Section 10(3)(b) or in the notice of determination issued by the appeal board to the appellant for the determination of appeal in Section 39((4) are good policy fully supported. It is not in the same way tally with the application of exemption from the specified standards and requirements in Section 15((2) and Section 20(3), application of exemption from energy audit requirement in Section 25(2) and notice of appeal under Section 33(3)(c) where only submission in writing/ documentation but without the mention of reasons shall be given.

The burden of giving reasons in support of refusal, application, appeal or determination shall be fairly taken up by the Director and the parties involved. Any application or appeal without accompanying valid reasons will cause abuse and overload the administration and effectiveness of the enforcement. Reasons in support of the application for exemption or notice of appeal are considered necessary.



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Appeal Board Panel

How many appeal cases to be determined are unknown. Maximum 5 members in each of the four disciplines and Engineers Registration Board provided in Section 34(1) will limit the resources of the appeal board panel in handling appeal cases. Members in equal proportion but not the exact number is suggested to allow for expansion flexibility for the appeal panel.

Extending the coverage of membership to E&M contracting specialists shall be logical apart from the registered professional engineers in different disciplines. We therefore would like to propose members from the Hong Kong Federation of Electrical and Mechanical Contractors Limited shall be included. Besides, The Hong Kong Air Conditioning and Refrigeration Association Limited shall be included for the Air Conditioning Installations.

Procedure of the Appeal Board

The appeal board allowed to determine its own procedure under Section 36(6) is given too wide its power. A set of appeal procedure enacted under by-law is deemed necessary to make the appealing process open and fair.

Hearing

Any witness that the appellant intends to call at the hearing must be given in the notice of appeal under Section 33(3)(c). Therefore, the calling of witness by the appellant and the Director shall be allowed in Section 37, although it may be allowed in the appeal procedure determined by the appeal board.

Prepared by

The Hong Kong Air-conditioning and Refrigeration Association Limited

