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LTO

BY FAX (28104561) AND BY POST

29 June 2010

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Ms. Olivia Nip,  
The Land Registrar  
Queensway Government Offices  
28<sup>th</sup> Floor, 66 Queensway  
Hong Kong

Dear Ms. Nip,

**Proposed Amendments to the Land Titles Ordinance ("LTO") -**

1. Proposed Land Registrar Caution Against Conversion Mechanism ("LRCAC")
2. Determination of Land Boundaries
3. Relationship between LTO and other Ordinances
4. Registration of Managers of T'sos and T'ongs

Our Working Party on LTO noted the Administration's April 2010 Progress Report to the LegCo Joint Subcommittee on Amendments to LTO on various issues of the LTO and would like to submit its views on these issues for the Administration's consideration:

**Proposed LRCAC Mechanism Review Committee**

The Administration proposed to give to any interested party aggrieved by the Land Registrar's decision to register a LRCAC or to refuse to remove a LRCAC the right to apply for review of the Land Registrar's decision. It was proposed that the application will be considered by a Review Committee, which will review the Land Registrar's decision and make a recommendation to the Land Registrar as to whether the LRCAC should be removed. The Land Registrar, however, will have the final say on the decision.

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The Working Party does not support the proposed administrative review mechanism. Other jurisdictions give to an aggrieved person the right to appeal to the court within a specified time limit. The Working Party does not think it is appropriate for the Review Committee to replace the court: further, it will be a waste of time and money to refer the case to the Review Committee when its decision would not be binding.

If, contrary to the Working Party's submission, a Review Committee is to be set up, the Working Party noted that the Review Committee is to be chaired by a legally qualified person with members representing the legal profession, consumer interests and the relevant trades was also noted. The issues to be considered by the Review Committee on whether to register a LRCAC could be extremely technical and should be decided by someone with expert knowledge and experience in conveyancing, rather than "*members representing the consumer interests*".

Notice of Intention to Register a LRCAC ("NOI")

The Working Party observed that in response to our earlier submission that the NOI should be registered, the Administration agreed to (1) publish the NOI in the Gazette; and (2) send a copy of it to the owner. The Administration further proposed to register a NOI against the concerned properties by the end of the tenth year after the commencement of the LTO as a "*final reminder*" to the parties concerned to resolve the title problem to the Conversion Day, failing with a LRCAC may be registered before the end of the 12-year incubation period.

The Working Party does not see why the NOI should be registered at such a late stage when prospective buyers and interested parties should be alerted of any potential title problem at the earliest stage possible. It will be difficult for any interested party to check through every issue of the Gazette to ascertain whether a NOI has been issued in respect of the subject property concerned.

In response to the Working Party's earlier submissions that the problematic status of all identified double/multiple registers should be "*noted*" on the register, you replied on 30 December 2009 assuring that "*remarks should have been made on each of the registers concerned indicating that there is/are one or other registers with the same lot number that can be retrieved*" so that persons dealing with the

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land concerned could ascertain from these registers the existence of other registers. As this is not mentioned in the latest Administration's paper, we would like to ascertain whether the Administration would implement the agreed arrangement.

***Determination of Land Boundary***

The Working Party could see that the problems about consent plan / non-consent plans raised important legal issues. As a matter of principle, certainty of boundary is an essential part of certainty of title. However, the Working Party does not think the issue should hold up the passage of the LTO as most titles in HK concern apartments/flats so boundary should not be a major issue.

***Relationship between the LTO and the other Ordinances***

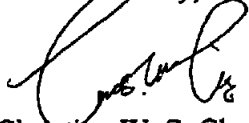
The Working Party reiterates its stance that the LTO should prevail over other Ordinances unless otherwise specified in the legislation.

***Registration of Managers of T'sos and T'ongs***

The Working Party noted that the Administration is still liaising with Heung Yee Kuk on the subject and would reserve its comments on the Administration's proposal on how to deal with this issue of registration of managers of T'sos and T'ongs in the LTO.

Lastly, given the discussions on different issues of the legislation over various occasions, it has become difficult for the Working Party to comprehend what exactly have been agreed and the updated positions on and correlation between many aspects of the legislation. To facilitate meaningful discussion of the legislation, we would urge the Administration to produce a Manual giving a comprehensive picture of the updated position of the new system.

Yours sincerely,



Christine W. S. Chu  
Assistant Director of Practitioners Affairs



c.c. Dr Hon Margaret Ng, Chairman of the LegCo Joint Subcommittee on Amendments to LTO