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By Fax (2899 2916)

15 October 2010

Mr Edward TO
Prin AS (Planning & Lands)3
Development Bureau
Planning and Lands Branch
9/F, Murray Building
Garden Road, Central
Hong Kong

Dear Mr TO,

**Technical Memorandum for Supervision Plans 2009
(Commencement) Notice (S.S. No. 5 on 8 October 2010)**

We refer to the captioned Notice and would like to seek your clarification on the following matters:

- (a) The Technical Memorandum for Supervision Plans 2009 (Special Supplement No. 5 on 9 October 2009) (TM) was gazetted on 9 October 2009 and tabled in LegCo on 14 October 2009. Under section 39A(7) of the Buildings Ordinance (Cap. 123) (BO), the TM is not subsidiary legislation, but it is subject to LegCo's scrutiny under a mechanism provided in section 39A of BO which is in substance the same as that provided in section 34 of Cap. 1. No amendment was made by LegCo within the scrutiny period as provided in section 39A(3) to (5). By virtue of section 39A(9)(a) of BO, the TM should have come into operation upon expiry of the period within which LegCo may amend it. As such, please clarify why it is necessary to appoint a new commencement date for the TM.
- (b) As the TM itself and commencement notices for Ordinances and subsidiary legislation are required to be tabled in LegCo and subject to amendment by LegCo, what is the reason for not tabling the above Commencement Notice?

I should be grateful if you could provide the Administration's reply in both languages by 19 October 2010.

Yours sincerely,

(YICK Wing-kin)
Assistant Legal Adviser

cc. LA
SALA1