

**For Discussion
on 14 January 2011**

LEGISLATIVE COUNCIL PANEL ON HOME AFFAIRS

**Update on Procurement of Third Party Risks Insurance
by Owners' Corporations**

Purpose

This paper briefs Members on the latest progress of the implementation of the Building Management (Third Party Risks Insurance) Regulation (the Regulation), which came into effect on 1 January 2011.

Background

2. The Regulation provides for mandatory procurement of third party risks insurance by Owners' Corporations (OCs), with the policy objectives of reducing the risk of huge amount of compensation faced by owners in case of accidents and, at the same time, offering better protection for members of the public.

3. The Regulation requires that the insurance policy should cover liabilities incurred by an OC in relation to the common parts of the building and the property of the OC in respect of the bodily injury to and/or the death of a third party. The minimum insured amount of the policy shall be \$10 million for each event. If an OC fails to comply with the legislative requirement, every member of the management committee (MC) of the OC concerned shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000. It would be a defence for MC members if they could demonstrate that they have already exercised due diligence to procure insurance.

Latest Position

4. As at end December 2010, 15 692 or 96% of the total number of buildings with OCs have already procured insurance. About 630 or 4% have not yet procured third party risks insurance. Of these 630 buildings, about 30% indicated that their buildings are carrying out maintenance and repair works, and they would procure insurance upon completion of the repair works, and the rest are either seeking quotations from the insurance industry or assistance from the Home Affairs Department (HAD). For instance, we are aware that for some buildings without proper maintenance or those with unauthorized structures, the OCs have experienced difficulties in procuring insurance, including a high premium compared to other buildings of a similar age. We have been assisting the OCs concerned in applying for various building maintenance loan and assistance schemes and encouraging them to carry out maintenance and repair works to improve the conditions of their buildings. Once the required maintenance work for improvement of the conditions of the building is completed, we expect that the OCs would be able to find the most appropriate and competitive insurance cover from the market.

Procurement of new insurance policy

5. Having regard to the spirit of the legislation which provides for a defence provision, we will not prosecute the OCs concerned if they have already contacted the District Offices in their respective districts for assistance in procuring the third party risks insurance. These outstanding cases have been/ will be followed up having regard to their specific needs –

- (a) we have referred some outstanding cases to the Hong Kong Federation of Insurers (HKFI) and provided the OCs with a list of insurance companies authorized by the Insurance Authority as insurers of third party risks insurance for buildings and a list of insurance consultant companies to facilitate their procurement of an insurance policy should they fail to procure insurance;

- (b) if an OC needs assistance in coordinating repair works, we shall arrange for professional housing managers to provide one-stop services, including rendering advice on measures to improve the maintenance conditions of the building, helping the OC to invite tenders, and applying for appropriate loan/ assistance schemes administered by the Government and other supporting organizations; and
- (c) in the case of a defunct OC, the housing managers will help owners to elect members to fill vacant posts of the Management Committee, so that the OC could resume operation and procure third party insurance.

Transition period with existing insurance policy

6. We note that some OCs have encountered problems in applying their existing insurance policies to comply with the new legislation requirement effective from 1 January 2011. We have reflected these concerns to the HKFI. As a result, the HKFI has issued a circular, reminding its member companies that when handling cases relating to the procurement of third party risks insurance, they should provide options which meet the legislative requirements without charging additional premium if there is no increase in risk exposure. This serves to provide choices for the clients. For instance, an OC may request to amend its existing third party risks insurance policy or request the Building Manager to add its name as an additional insured in the Building Manager's current third party risks insurance policy to comply with the legislative requirements in respect of the minimum insured amount (i.e. \$10 million) and coverage (i.e. the bodily injury to and/or death of a third party). In short, additional premium, if any, should only be charged if there is an increase in risk exposure; other administrative charges, if any, should be levied on a cost-recovery basis.

7. HKFI has already conveyed the above advice to its member companies, insurance agents and two insurance brokers associations. HKFI has also uploaded a set of frequently asked questions onto its website for the reference of members of the public and set up a hotline to handle public enquiries.

Way Forward

8. We shall continue to assist OCs in managing their buildings effectively, including rendering support for OCs to carry out maintenance works and reactivating defunct OCs. We would also continue to work closely with the HKFI to provide advice to OCs on the procurement and renewal of third party risk insurance policy.

Home Affairs Department
January 2011