

**The Representation of PDB Member Vincent MAK
at the Special Meeting of the LegCo Panel on Home Affairs
on 29 June 1999**

(A) Mandatory Incorporation of Owners for All New Buildings

The proposal requires that all the newly completed buildings must have incorporated owners after registration of first assignment of a unit. It is recommendable in that it avoids the lengthy procedures of incorporation as present. However, we have to determine the following issues so as to prevent any 'grey area' after the enactment of the proposal.

- 1) Is it necessary to determine the portion of shares must be held by individual purchasers who are not the nominated person of the developers before the incorporation be approved, because the developer will control the persons to be the committee members.
- 2) Restriction on the number of representatives by the developers who may maintain a certain number of shares, especially for building with shopping arcade, must be stated.
- 3) The shares of common areas and external wall must belong to the incorporated owners - can the proposal have effect on this aspect.
- 4) The guideline for allocation of the shares among residential units, commercial units car parks, common area, external wall, flat roof be made so as to avoid any prejudice to the residential owners - sometime, we find that the shares for payment of management fee is small but the voting shares is large especially for commercial units.
- 5) How to resolve the situation where no owners, or insufficient number of owners are willing to be the committee members, who is responsible for this vacuum period. It is recommended that guideline be given to advise owners how to follow this situation.

(B) Appointment and Termination of Manager

The appointment of first Manager is stipulated in the Deed of Mutual Covenant (DMC) where the term of appointment will extend to five years or even longer to 10 years. It will be prejudice to the interest of the owners. It is recommended that a separate management agreement be signed between the incorporated owners and the management company within a year after the incorporation.

It is recommended that the shares of owners for appointment of manager may be over 30% of shares provided that the appointment procedures be followed such as incorporated an independent committee where at least 50% of members is not the existing member of management committee, open tender and conduct of interview and particular of information be disclosed openly to owners.

If the termination of Manager is before the expiry date, then, it is recommended that 50% shares of owners be approved for such early termination. If termination is occurred upon the term of agreement, then no need to have owners' approval.

Vincent Mak
YTM Provisional District Board Member