

(Translation)

Special Meeting for LegCo Panel on Home Affairs Held on 29 June 1999

Building Management

Speaking Notes of Mr LAM Hong-wah, Convener of Private Housing and HOS Courts Working Group, Development and Housing Committee, Sha Tin Provisional District Board

To: Madam President

As the convener of Private Housing and HOS Courts Working Group, Development and Housing Committee, Sha Tin Provisional District Board, I have organized several seminars in the past few years inviting various professionals and corporation representatives to speak on the issue on Owners' Corporation (OC). In the seminars, they discussed about the unfairness in respect of Building Management Ordinance (Chapter 344) and proposed the departments concerned to carry out a detailed study.

The main points of the seminars are summarised as follows:

- 1) The latest amendment to the Building Management Ordinance(i.e. Chapter 344) was made six years ago in May 1993. Many new issues regarding the management of private buildings have emerged and it indicates that Chapter 344 is not able to cover or solve all the problems concerned nor can it fully safeguard the interests of the owners. Therefore, it is a matter of urgency to conduct a detailed review and make necessary amendments.
- 2) One of the outstanding issues is that the undivided shares of estate right and interest of the shopping arcade held by the developers account for a greater ratio than the total number of shares held by the residential owners in some large scale commercial/residential developments. Since it is stipulated in the Deed of Mutual Covenant (DMC) in advance that the future OC must include both the commercial and the residential portions, it is rather impossible to set up OC at all.

- 3) Phase IV, Sunshine City, Ma On Shan is a good example. Its total number of undivided shares of estate right and interest is 223,800, among which that of the shopping arcade is 116,216 representing 51.9%, that of the traffic interchange is 6,218 representing 2.8% and that of the residential portion is 99,466 representing 44.4%. Since the commercial units are rented out rather than sold out, the developer will still hold more than 50% of the undivided shares of estate right and interest. That is to say, if an OC is established, the developer will have overwhelming control over the building management and the interests of the owners will be at its mercy.
- 4) Other unfair examples include that the residential owners have to bear 70% of the expenditures on the common facilities such as the maintenance fee of the escalators/lifts whereas the developer who owns the shopping arcade is only responsible for the remaining 30%. The owners can do nothing about it.
- 5) It is proposed that the law should be amended and a special mechanism be set up providing that if the above situation is encountered, the residential owners of commercial/residential developments will be allowed to set up OC solely for themselves and will not be bound by the unfair DMC concerned.
- 6) In clearing the development plans of the developers, the Government departments concerned must pay attention to such examples and include restrictions in the land lease as well as provisions in the DMC to prevent the developers from manipulating the OCs in future.