

香港房屋經理學會的信頭

Letterhead of THE HONG KONG INSTITUTE OF HOUSING

1st March 2000

Legislative Council

Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong

Attn. : Miss Flora Tai
Clerk to Bills Committee

Dear Madam,

We refer to the tele-conversation between the undersigned and Miss Tai of your office.

A copy of our comments to the Home Affairs Bureau on the proposed amendments to the Building Management Ordinance is enclosed for your reference. We have no further comments to add and will not attend the meeting with the Housing Panel of LECO on 9th March 2000.

Yours sincerely,

THE HONG KONG INSTITUTE OF HOUSING

Albert C.H. So
President

Encls.

2 December 1999

Mr. David H.T. Lan
Secretary for Home Affairs
Home Affairs Bureau
31/F, Southorn Center
130 Hennessy Road
Wanchai, Hong Kong

Dear Mr. Lan,

Recommendations on the 1999 Policy Address on Building Management

We appreciate that the Home Affairs Bureau has set objectives in the 1999 Policy Address to make strenuous effort in building community awareness of the importance of building management and facilitating the owners to improve management of their buildings.

We would like to append below our views on the 1999 Policy Address on Building Management for your consideration.

1. Building Management Resource Centre (BMRC)

We appreciate the achievement of setting up the BMRC in promoting the community awareness of the importance of building management and assisting the owners to improve the standards of management, safety and maintenance of their buildings.

The BMRC may handle various inquiries relating to building management and this is a very good and useful database for the Government and the professional housing managers to analyse the cases for making improvement to the Building Management Ordinance (BMO) and the general practice in the profession.

We would like to recommend that the BMRC should analyse the cases regularly with the professionals of all disciplines on building management for minimizing argument between the owners and the property management company by making improvement to the BMO and the Guidelines for drafting Deed of Mutual Covenant.

2. Setting up the Building Management Ordinance (BMO) Review Committee

At present, the BMO would only be reviewed and amended on ad-hoc basis resulting from a precedent case determined by the Court. We would like to recommend setting up a BMO Review Committee comprising of different professionals to review the Ordinance regularly with information on the cases handled by the BMRC. The periodic review of the Ordinance will definitely minimize existence of lingering argument between the owners and property management companies on the building management issue not clear under the Ordinance.

3. Mandatory Management for Problematic Building

We understand that the Home Affairs Bureau is now setting criteria for drawing up a list of property managers published in the Gazette for the owners' choice on appointment in response to implementation of mandatory management.

Sizable property management companies may not have business incentive to provide service to the problematic buildings, while the small-scale property management companies with interest may not be qualified to be on the list according to your proposed criteria for the managers so listed. In order to ensure the mandatory management can be implemented smoothly and successfully, we suggest that the Government should revise the criteria that can allow the small scale property management to be on the list.

On a more practical issue, and in an attempt to relieve the workload of the Lands Tribunal, the need to have a mechanism for mediation for settlement concerning the disputes over the interpretation of the implicit or ambiguous terms of BMO and DMC is becoming more apparent. We would suggest Government to consider setting up an independent body to help mediate a settlement, as it can be anticipated there would be more disputes over building management matters with the increasing awareness of individual owners' right and obligations in BMO and DMC.

We sincerely hope that you would consider the above recommendations on the 1999 Policy Address on Building Management. If you have any queries in relation to the above, we shall be delighted to meet and discuss with you in details.

Yours sincerely,

Jimmy Mak
Chairman
Chartered Institute of Housing
(Hong Kong Branch)

Albert So
President
The Hong Kong Institute of Housing

19 August, 1999

Secretary for Home Affairs
Home Affairs Bureau
31/F., Southorn Centre,
130 Hennessy Road,
Wan Chai, Hong Kong

Attn: Mr. Ben W.H. Chong

Dear Mr. Chong,

The Proposed Amendments to the Building Management Ordinance

We thank you for your letter of May 31, 1999 inviting us to give our comments on the proposed amendments to Building Management Ordinance (BMO) and refer to the meeting of July 21, 1999 among Home Affairs Branch and Mr. Johnnie Chan, the President of Hong Kong Association of Property Management Companies, Mr. Albert So, the President of the Hong Kong Institute of Housing and Mr. Jimmy Mak, the Chairman of Executive Committee of Chartered Institute of Housing (Hong Kong Branch).

Apart from our comments given during the said meeting regarding the fee levels for the three scenarios, we would like to elaborate further about our other proposed amendments to the BMO as follows:-

1. Arrangement of Insurance for the Common Area

It is common that members of the Management Committee of an Owners Corporation are not aware of the importance of insurance for management of a building. Individual owners may suffer from ignorance of the committee members on protection from insurance. We recommend to amend the BMO so as to make it mandatory for Owners Corporation to arrange insurance to cover all the potential risks to the buildings including but not limited to fire and public liability.

2. Auditing of Management Accounts

Building management expenses are always the major concern of the owners. A clear requirement in the Ordinance on appointing a Certified Public Accountant to conduct a fair and just audit to the management accounts will help to protect the interests of the owners.

3. Automatic Formation of Owners Corporation for the New Buildings

Formation of Owners Corporation is not a panacea for solving the building management problems in Hong Kong as evidenced by the management problems found in the buildings like Garley Building in Yaumatei and Sun Hing Building in Mong Kok where the Owners' Corporations are in place. Many buildings or estates in Hong Kong such as Concordia, Taikoo Shing, Hang Fa Chuen, and City One Shatin are managed well even without the presence of the Owners' Corporation.

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Mr. Ben W. H. Chong

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In addition, there is usually a provision in the Deed of Mutual Covenant of most if not all new property developments that the Manager has the obligation to convene the meeting to form Owners' Committee in the building or the estate. There is a way for the owners to participate in the building management Or else, they can form themselves into Owners' Corporations according to the requirements laid down in the BMO. There are enough channels for the owners to participate in the building management. What the government should do, if there is a need, is to amend the BMO to help and not force the owners to form themselves into Owners' Corporations. We are of the opinion that it is the citizens' basic right to form or not form themselves into any associations.

Now that the Housing Managers Registration Bill is in the pipeline, it is more practicable to stipulate that the building management should be undertaken by professional housing managers, rather than simply compelling the owners to form Owners' Corporations and to take up the building management responsibilities. Only through professional building management could we ensure the buildings are well maintained. The Institutes shall be happy to provide more input in this respect upon request.

4. Shares for Owners' Meeting for the Purpose of Formation of Owners' Corporation

In BMO, Management Committee (for the purpose of formation of Owners' Corporation) may be appointed by a resolution of owners of not less than 50% of the shares. It is not specified whether shares of common areas, collectively owned by owners but held on trust by the Manager, should be counted for the purpose. In the newly revised guidelines for DMC issued by LACO, it is already specifically stated that undivided shares allocated to the common areas should be excluded for the purpose. BMO may need to clarify this, as there are many cases that the 50% of the shares could hardly be attained with the inclusion of undivided shares of the common area, which has no voting right.

5. Mandatory Management for Problematic Building

We welcome your proposal to introduce mandatory management to problematic buildings but would like you to look at the issue about the recovery of management expenses from the owners. We worry that the owners in the problematic buildings, which are usually occupied by the less well-off people, may not be able to pay the management expenses they do not have to pay previously. The financial burden may deter professional property management companies from providing the service

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6. Criteria for List of Managers

We have the following comments on the proposed criteria for List of Managers:

- a) 'Holding a Security Company Licence' - some small-scale property management companies may not have security company licence as they may select to contract out the security service just like the cleaning service. The criterion on holding a security company licence may disqualify some small-scale property management companies to be on the List.
- b) Change the name "Manager" to "Property Management Agent" so as to distinguish it from the "Registered Housing Manager" which is soon to be covered by the proposed Ordinance on the registration of professional housing managers.

7. Code of Practice on Building Management

The property management industry is governed by a long list of legislation. To name a few, there are Security Guarding Services Industry Ordinance, BMO, Lifts and Escalators Ordinances, Buildings Ordinance and --- To avoid unnecessary duplications and complexity, we do not recommend the publication of a Code of Practice on Building Management.

We sincerely hope that you would consider the above recommendations on the proposed amendments to the BMO. If you have any queries in relation to the above, we shall be delighted to meet and discuss with you in details.

Yours sincerely,

Albert So

President

The Hong Kong Institute of
Housing

Johnnie Chan

President

Hong Kong Association of
Properties Management
Companies

Jimmy Mak

Chairman

Chartered Institute of
Housing (Hong Kong Branch)