

2 March, 2000.

Miss Flora Tai
Clerk to Bills Committee
Legislative Council
Legislative Council Building
8 Jackson Road,
Hong Kong.

Dear Miss Tai,

Letter from Mr Ian R C Cullen
to the Hon Edward S T Ho

I refer to the letter dated 18 January 2000 from Mr Ian R C Cullen to the Hon Edward S T Ho. This letter sets out the Administration's comments on the points raised by Mr Cullen.

Members of management committee of
owners' corporation must be owners

There are explicit provisions under the existing Building Management Ordinance (Cap 344) for this. Paragraph 2 of the Second Schedule to Cap 344 stipulates that the owners shall, at a meeting convened under Section 3, 3A or 4, appoint from amongst themselves members of the management committee. "Owner" is defined under Section 2 as "(a) a person who for the time being appears from the records at the Land Registry to be the owner of an undivided share in land on which there is a building; and (b) a registered mortgagee in possession of such share". I trust that the above-mentioned provisions have addressed Mr Cullen's concern.

Definition of common parts

Mr Cullen is concerned that an owners' corporation is sometimes required to manage certain parts of a building used exclusively by an owner. It appears that Section 34H of Cap 344 has duly addressed this concern. The Section states that "(1) where a person owns any part of a building, has the right to the exclusive possession of any part of a building or has the exclusive right to the use, occupation or enjoyment of that part, as the case may be, but the deed of mutual covenant in respect of the building does not impose an obligation on that person to maintain the part in good repair and condition, that person shall maintain that part in good repair and condition; and (2) the obligation in subsection (1) shall be deemed to be an obligation owed to all owners of the building under the deed of mutual covenant."

The Administration thanks Mr Cullen for his views.

Yours sincerely,

(Francis Lo)
for Secretary for Home Affairs