

Building Management (Amendment) Bill 2000

Purpose of Written Submission

1. The purpose of this written submission to the Bills Committee is to present the MTR Corporation's views on Clause 3(b) of the Building Management (Amendment) Bill 2000 and paragraph 10 of the Legislative Council Brief of the Bill. Clause 3(b) and paragraph 10 of the Brief indicate that if the Bill passes into law, a minority (10%) of owners will be able to make management decisions on behalf of all owners, irrespective of whether the development is completed or not.

Overall Support for the Bill

2. Generally, the MTRC fully supports the spirit of the Bill, which aims to facilitate the better management of completed buildings, and simplifies the formation of management committees and owners' corporations of new buildings. This is a tremendous step towards achieving a higher standard of management and maintenance, and is particularly necessary in the context of Hong Kong's ageing building stock.

Concern over Clause 3(b) of the Bill

3. However, the MTRC is concerned that the Bill does not take into account the complexities involved in large, and comprehensively planned developments, particularly those that are being developed in separate phases or under construction.

Example: Area 86 in Tseung Kwan O

4. A case-in-point is our future development at **Area 86** in Tseung Kwan O, which is planned to be developed in 14 phases over a 10-12 year period under one single land grant. Ultimately, Area 86 will contain about 21,500 flats, shopping centres, extensive parklands and a range of Government facilities. It will also contain substantial 'development common' areas, such as internal roads, parks and other recreational facilities. Some parts of the common areas will be built by the MTRC, whilst other parts will be the responsibility of joint-venture developers who will be involved in specific phases of Area 86.

Far-reaching Implications

5. Under the Bill, an owners' corporation can be formed as soon as a management committee is appointed, and this appointment can be made by "a majority vote of owners at a meeting convened for the purpose", with the quorum of the meeting being not less than 10% of the owners.
6. This implies that within very large developments such as Area 86:
 - (a) A management committee and owners' corporation with jurisdiction over the whole lot may be formed before full completion of the development, i.e. while some parts of Area 86 are still under construction; and
 - (b) Management decisions may be binding on the whole lot including the development common areas even before they are completed. These common areas may be located within phases that have yet to be provided under various stages of construction.

Under such a scenario, management decisions may be made that could conflict with the development programme. This may result in the non-compliance of the MTRC's obligations as stipulated in the land grant conditions.

7. For example, a situation could arise whereby the management committee/owners' corporation of Area 86 may object to the projected management costs of some development common areas that are only at their early stages of design or under construction, which may result in programme delays.
8. The Corporation's vision for Area 86 is to plan and deliver a scheme that is driven by quality design. We share Government's objective to build better homes and have taken major steps to design Area 86 as an environmentally-friendly, people-focused township. We intend to design a living environment that gives priority to open space, pedestrians and quality of life.
9. Our vision may be jeopardised if the minority of owners take over the management decision of common areas at an early stage of completion.

Conclusion

10. The MTRC is of the view that estates under construction and planned to be completed in phases should not be allowed to have owners' corporations formed until the whole project is completed and a Certificate of Compliance has been issued by Government for the development.