

**Legislative Council Panel on Home Affairs
Special meeting on 7 December 1999**

Item II : Enforcement of judgments against owners' corporations

Purpose

This paper addresses issues relating to Section 17 of the Building Management Ordinance (Cap.344) (BMO) as raised in a letter dated 29 November 1999 from the Clerk to Legislative Council Panel on Home Affairs to the Secretary for Home Affairs.

Owners' corporations

2. An owners' corporation (OC) is a body corporate with perpetual succession and shall be capable of suing and being sued, pursuant to Section 8 of the BMO. Government encourages owners to form OCs under the BMO and carry out their building management responsibilities. The duties and powers of OCs are stipulated under Sections 14 and 18 of the BMO which include, among others, maintaining the common parts of buildings in a state of good and serviceable repair and clean condition; and exercising control, management and administration of the common parts.

Section 17 of the BMO

3. Section 17 of the BMO provides for the enforcement of judgments against OCs as follows-

(1) *If a judgment is given or an order is made against a corporation, execution to enforce the judgment or order may issue –*

- (a) *against any property of the corporation; or*
- (b) *with leave of the tribunal, against any owner.*

(2) *An application for leave under subsection (1)(b) shall be made by summons served personally upon the owner against whom execution is sought.*

4. The Registrar of the Lands Tribunal has advised that the Lands Tribunal does not have statistics of applications for leave under the Section.

Court ruling on 25 November 1999

5. It was reported that the Court of Appeal had, on 25 November 1999, ruled that the chairman of an OC of a building in Mong Kok should not be held responsible for the debts incurred by the OC. This was a case in which a charging order had been issued against the property of the chairman following a dispute between the OC and its architect over arrears of payment relating to renovation works carried out at the building.

6. As at 2 December 1999, the written judgment was not yet available. We welcome the Court of Appeal's judgment as reported that the chairman, who volunteers to work for the OC, should not be held personally liable for the collective debts of the OC. This judgment has upheld the spirit of the law, in particular Section 17 of the BMO. We consider that the Section is in order and does not require amendments.

Government policy and services

7. Government policy is to help owners of private buildings to help themselves in managing their own properties. Government services available to owners include (i) advice and liaison; and (ii) Building Management Resource Centre.

(i) Advice and liaison

Officers of the Home Affairs Department (HAD) assist owners to form OCs. About 6,000 OCs have been formed covering about 10,000 buildings. After formation, HAD officers provide advice, liaison and mediation services for the owners.

(ii) Building Management Resource Centre

Hong Kong's first Building Management Resource Centre was established in mid-1998 in Yau Ma Tei. Free preliminary professional advice is provided by volunteer representatives of the relevant professional institutes on duty at the Centre. The OC chairman referred

to in paragraph 5 above obtained free professional advice from the Centre through referral by HAD. A second Centre will soon be opened on Hong Kong Island and a third Centre is being planned in the New Territories.

Epilogue

8. Members are requested to note the content of this paper.

**Home Affairs Bureau
December 1999**