

22 April 2003

Ms Salumi CHAN  
Clerk to Bills Committee  
LegCo Secretariat  
3/F Citibank Tower  
Garden Road  
Central  
Hong Kong

Dear Ms CHAN

**Land Titles Bill**

The Hong Kong Institute of Surveyors has in the past years advocated that to fully achieve the benefit of title registration, apart from the certainty to the ownership it is most important that the system should also provide reliable and adequate records about the particulars of the landed interest including plan showing the size, boundary and layout of the interests. We regret to note that the new system as proposed under the Bill provides guarantee of ownership only. Whereas the Institute has been explained by the Administration of the difficulties in guaranteeing land boundary, as there is no stated time limit for the conversion we fail to see why some arrangements could not be made to enable the replacement of substandard plans with proper ones over a period of time. We strongly believe unless there are accurate records of the particulars of the landed interest the benefit of the new system will be greatly discounted.

As regarding the content of the Land Titles Bill, we would comment as below.

*Section 49*

Subsection 1(b) leaves it to the Registrar to specify the "particular part of the land" as the easement. To achieve this result, the need of a plan (necessarily a well prepared one) is essential. However, by Section 19 if this is taken as approximate only, the purpose will be defeated.

*Section 60*

Destruction of certain old records must be considered very carefully. In many cases, original entries of figures in the area schedules and the plans are informative. The style of writing, the colour, the density and the quality of the ink may disclose a lot of information such as the different timing of entry, the reliability or the copying nature and the possibility of overwriting, etc. This is invaluable information, which can be interpreted by experts. Microfilming or any other form of imaging may not be able to retain such information.

## *Section 92*

Most part of this section relates to the acceptance or otherwise of a plan by the Director of Lands. While this exercising of power may be reasonable, it will be meaningful only if the plans could gain certain status.

Subsection 2(b) states that the Director of Lands shall not determine the boundaries of a lot held under a block Government Lease. In other words, neither the Government nor the landowners shall make a definition of the boundaries for the old schedule lots. As such, would it imply a defect in the land title?

Subsection 5 states that the Director of Lands may authorize "a person" to perform function, etc. under this section. Apparently, this function may include survey for boundary plans. If this is indeed the case, then it should (or must) be done by an Authorized Land Surveyor as described under the Land Survey Ordinance (Cap. 473) or by a Government Employee with professional capacity in land surveying.

Subsection 6 outlines the meaning of boundary "determination" in which a boundary survey has been explicitly excluded. We opined that in the process of updating the boundary, a land boundary survey plan should be prepared in accordance with the Code of Practice as referred to under the Land Survey Ordinance (Cap 473).

### *Implementation of the Bill*

As there is no stated time limit for the conversion, would it be very costly for running two systems in parallel? It may be desirable to have a time frame for completing the conversion or at least, for reviewing the operation of the new system.

Finally, the Institute would wish to be represented in the open hearing of the Bills Committee on the reading of the proposed Land Titles Bill.

Yours sincerely

Kenneth CHAN Jor Kin  
President

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c.c. Ms CHEUNG Siu Hing, JP – Deputy Secretary (Urban Renewal and Buildings)