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17 June 2004

The Honourable Tam Yiu Chung  
Member of the Legislative Council

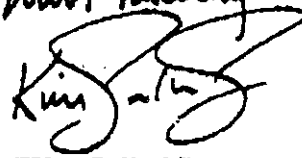
*Yau MR Tam,*

**Re: Committee Stage Amendments of Land Titles Bill**

I refer to your letter of 14 June 2004.

1. The Administration will consider to add the date of expiry of the term of the Government lease in the Title Register.
2. The term "lessee" is defined in Clause 2 of the Bill as, in relation to a long term lease, the person named in the Title Register as the lessee of a registered long term lease. Accordingly, the term "lessee of the long term lease" in Clause 10(3)(f) is appropriate.
3. The position of the various types of property are as follows :
  - (a) any purported assignments of "HOS flats" and "Tenants Purchase Scheme flats" without payment of premium are void under section 17B of the Housing Ordinance (Cap. 283). This section will prevail according to Clause 3(3) of the Bill;
  - (b) the requirement to pay premium before sale is stated in the Government grant of the 'small houses'. This is an overriding interest under Cl.24(1)(f)(i) of the Bill; and
  - (c) Upon dissolution of a co-operative building society, each flat will be assigned to the individual member with a legal charge for securing payment of premium to be made before sale. It is not necessary to preserve it as an overriding interest.

4. The rights stipulated in clause 24(1)(i) are the rights acquired by adverse possession by virtue of the Limitation Ordinance. They are described in that Ordinance as stated in Clause 24(1)(i). A person acquiring the rights in the land under clause 24(1)(i) can only be registered as the owner if there is a court order to that effect. However, such person can also register his rights as an overriding interest on the incumbrance side of the Title Register but he will not become the owner. At present, a person acquiring such rights can also register a statutory declaration on his rights under the Land Registration Ordinance on the incumbrances side of the register. A purchaser will be able to have notice of such rights.
5. According to Clause 26(1), the Registrar may only issue a title certificate to the owner of registered land or the lessee of a registered long term lease on application. The application has to be made by the owner or lessee. Their attorney is not acceptable.
6. It will be considered whether a power of attorney has to be kept upon making the regulations.
7. There is no offence for the vendor's non-disclosure of information adversely affecting the title of the land. It is for the purchaser to check title and such non-disclosure is a matter of contractual obligations between the vendor and purchaser. If there is such obligation, the purchaser has to cancel the purchase before completion.
8. The policy is that the unregistered land will become registered land upon registration of the relevant instrument. The date of first registration of that land is the date of actual registration of that instrument. The one month relation back under the Land Registration Ordinance will not apply.

*Yours sincerely*  


(Kim Salkeld)  
Land Registrar

c.c. The Honourable Margaret Ng  
Chairman of the Bills Committee on Land Titles Bill

Ms. Olivia Nip  
Deputy Secretary, Housing, Planning and Lands Bureau