



THE

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16 December 2003

BY HAND &
BY EMAIL

Mrs. Mary Tang
Clerk to Bills Committee
on Landlord and Tenant (Consolidation)
(Amendment) Bill 2003
Legislative Council Building,
8 Jackson Road,
Central, Hong Kong

URGENT

Dear Mrs. Tang,

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 2003

Thank you for your letter dated 21 November 2003 to our President, inviting the Society's comments on the above Bill

I am pleased to confirm that the Property Committee has considered the legislative proposals put forward in the Bill and has no comment thereon. We shall accordingly not be sending any representative to the 18 December Bills Committee meeting.

The Committee would however wish to take this opportunity to reiterate its concerns on the existing distress procedure, which is considered to be cumbersome, particularly in view of the prolonged period required for appointment of Bailiff and the requirement for a total of 3 visits before the door of the property can be broken open. We have indeed voiced our concerns during the LegCo deliberation process of the Landlord and Tenant (Consolidation) (Amendment) Bill 2001 and requested for an overall review and modification of the system. Regrettably, no improvement has been introduced to the system. I attach a copy of the Administration's Reply to the Society's submissions on the 2001 Bill in this regard for your kind attention.

Yours sincerely,

Christine W. S. Chu
Assistant Director of Practitioners Affairs

Encl.
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Annex B

Reply to the submission from the Law Society of Hong Kong

Thorough review of the Ordinance

The Law Society proposes that a thorough review should be considered to assess the continued need for tenure protection.

Tenure protection is one of the fundamental provision to the current tenancy practice. Such a review will be outside the scope of the Landlord and Tenant (Consolidation) (Amendment) Bill 2001. The Administration will further explore the feasibility and desirability of the proposal outside the context of the Amendment Bill in question.

The Bill 2001

Clauses 12 and 13

The Law Society proposes to reduce the lead time for the landlord to serve a notice of termination of tenancy on the tenants to "not more than 3 nor less than 2 months".

The Administration proposes to set the lead time at three to four months because firstly, the feedback received by the Administration over the years has indicated that the existing lead time is too long, and secondly, flexibility is favoured to accommodate the changing circumstances nearer

Annex B

the end of the tenancy. The Administration does not agree to further shorten the lead time because it would run the risk of not allowing enough time for the landlords and tenants to negotiate before starting the case in the Tribunal.

Clause 16(c)

The Law Society objects to granting discretion to the Court to entertain applications not adhering to the statutory time limits.

At present, landlords and tenants have to strictly observe the various time limits in the tenancy renewal procedures. This has been causing inconvenience and the Lands Tribunal has criticised that at times it is prevented from determining cases solely on their merits and has to strike out some applications due to such kind of technical flaw. Providing the Lands Tribunal with power to invoke discretion to hear cases of good cause despite the time limits have not been complied with will overcome this drawback.

Clause 17

The Law Society proposes that amendments should be made to state clearly that failure to state a ground of opposition would not invalidate Form CR 101, in order to be consistent with the proposal to allow landlords to add grounds in opposing granting of new tenancy by the Tribunal.