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16 January 2006

Clerk to Panel on Planning, Land and Works
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

(by Fax : 2869 6794)

(Total Pages : 3)

(Attn : Ms Anita Sit)

Dear Ms Sit,

Panel on Planning, Lands and Works

Incorporation of owners in house developments

I refer to your letter of 9 December 2005.

Regarding the imposition of appropriate terms and conditions relating to Deed of Mutual Covenants (DMC) on land leases, we wish to clarify that for small houses granted under the New Territories Small House Policy or New Territories Exempted Houses, it has been stipulated since late 1985 in the land grants that the Grantee shall not assign or otherwise create an undivided share or interest in the lot without allocating one undivided third share each, by a Deed of Mutual Covenant, to the Ground Floor, the First Floor and the Second Floor of the building on the lot. The relevant clause is attached at the **Annex** for your reference.

However, unlike the DMC clause generally imposed on high-rise residential developments, approval of the Director of Lands is not required for the DMCs of small houses and New Territories Exempted Houses. It is because the management and maintenance rights and obligations between the co-owners of a small house (which is only 3-storey high) are relatively less complicated in nature, as compared to high-rise residential buildings with more common area and facilities.

I hope the above clarifies the matter. Thank you.

Yours sincerely,

(Miss Leona Law)
for Secretary for Housing, Planning and Lands

c.c. Director of Lands (Attn: Mr Simon Yu)

Extract from land grant condition of Small Houses

- (e) The Grantee shall not assign or otherwise create an undivided share or interest in the lot without complying with the following provisions :
- (i) one undivided third share each shall first be allocated, by a Deed of Mutual Covenant complying with sub-clause (e)(iii) of this Special Condition, to the Ground Floor, the First Floor and the Second Floor of the building on the lot Provided that in the event of the roof of the said building being alienated together with one of the said Floors, the one undivided third share allocated to that particular Floor shall be deemed to include the said roof;
 - (ii) neither the lot nor any unit in the building thereon shall be divided, as to the title thereto, vertically; and
 - (iii) such assignment or other disposal (other than an underletting not exceeding 5 years) shall be made subject to and with the benefit of a Deed of Mutual Covenant which shall provide, inter alia, for a right of access to and through all the common parts of the lot and the building thereon and for the proper maintenance and repair of the said building and the common parts thereof free from obstruction.