



**THE HONG KONG ASSOCIATION OF
PROPERTY MANAGEMENT COMPANIES**
香 港 物 業 管 理 公 司 協 會

Your Ref: CB2/SS/11/06

23 October 2007

Hon Mr. James TO Kun-sun
Chairman of the Subcommittee on
Building Management (Third Party
Risks Insurance) Regulation
Legislative Council Building
8 Jackson Road, Central, Hong Kong

By Fax No:2509-9055 & By Hand

Dear Mr. To,

Building Management (Third Party Risks Insurance) Regulation

In response to your letter of 15 October 2007 regarding the captioned regulation, we are pleased to offer the following comments for your kind consideration:-

1. To protect the best interests of property owners, third parties and the industry, we support in principle the proposed third party risk insurance to cover any liabilities for the common parts of the building.
2. Notwithstanding that the cardinal purpose of this Regulation is to apply to all buildings in the territory, regardless of whether an owners' corporation (OC) has been formed or not, we perceive that it will be difficult for the captioned Regulation to apply to those buildings without being incorporated or the appointment of a professional manager. In our views, a more sophisticated and prudent mechanism should be established by the Government to manage those buildings that fall into this category.
3. The minimum amount of third party insurance of \$10 million for any prescribed liability under Section 4 of the Regulation is sufficient for buildings managed by a professional manager under normal circumstances. The Government should study whether the insurance premium of \$10 million could be universally applicable to all circumstances, having regard to a precedent case of Albert



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House (添喜大廈) involving a huge claim of more than \$20 million and the fact that raising the insurance premium to \$20 million might significantly affect the financial position of small-sized buildings and the building owners residing therein.

4. While we echo the views as stipulated in Section 6(4) of the Regulation to circumscribe the conditions on which the owners' corporation may be considered as having failed to exercise reasonable diligence, we envisage that it might attract more disputes on the interpretation of the terms in the relevant sections of the Regulation including, among other things, those matters involving conditions and maintenance of a building etc. We find it necessary to have a clear interpretation of the word "reasonable" under this Section so as to avoid any legal disputes arising from the interpretation of this wording under different circumstances.
5. We are of the views it will be too harsh if the breach of the requirements pertaining to a notice of insurance under Section 5(7) by a corporation will lead to every member of the management committee be guilty of a criminal offence and liable to a fine of \$5,000 (Level 2) and so is the breach of the requirements of the duty of a corporation to give information for insurance under Section 11(3).

We stand ready to further discuss with you on this matter. Should you have any queries, please feel free to contact me at 2828-0747 or our Administration Officer, Ms. Micheline Lo, at 2186-6101. Thank you very much for your attention in this matter.

Yours sincerely,
The Hong Kong Association of Property
Management Companies


Kwong Ching Wai
1st Vice President