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2869 9457  
2877 5029

By Fax (2147 5834)

2 March 2010

Miss Katharine Choi  
Principal Assistant Secretary for the Environment (Energy)  
Environment Bureau  
46/F, Revenue Tower  
5 Gloucester Road  
Wan Chai  
Hong Kong

Dear Miss Choi,

**Buildings Energy Efficiency Bill**

I refer to Part 5 of the Buildings Energy Efficiency Bill (Improvement Notice).

Clause 26 of the Bill seeks to provide that the Director of Electrical and Mechanical Services may issue an improvement notice to the developer or owner of a prescribed building, the owner of a common area of a prescribed building or the responsible person of a unit of a prescribed building if the Director is of the opinion that the developer, owner, or responsible person is contravening or has contravened a requirement under the Bill. An improvement notice issued to that person must contain a direction directing him to remedy the contravention within the period specified in the notice. A person who contravenes any direction contained in an improvement notice commits an offence and is liable to a fine at level 4 (\$25,000) and a further fine of \$1,000 per day in case of a continuing offence.

Clause 26(6) provides that if, after an improvement notice has been issued to a developer, owner or responsible person ("the former party") but before the period specified in the notice for remedy expires and before the contravention is remedied, a person replaces the former party as the developer, owner or responsible person ("the successor") of the relevant building, common area or unit, the former party must, within 7 days after the change, notify the Director of such change of ownership or control. The clause further provides that the improvement notice issued to the former party ceases to have effect.

**Issues**

- (a) Does a developer, owner or responsible person have an obligation under the Bill or any other provisions of the law to inform the successor or potential successor of the improvement notice before the change of ownership or control?
- (b) Is an improvement notice issued under clause 26 a document affecting the land and registrable under the Land Registration Ordinance (Cap. 128)?
- (c) Does clause 26 have the effect that if the change of ownership or control occurs very shortly before the expiry of the time for remedy as specified in the improvement notice (say, the day before the expiry date), the Director will only be informed of such change after the expiry of the time for remedy?
- (d) What are the obligations of the successor who replaces the former party with regard to the improvement notice (if any)?

I would be grateful if you could advise on the above in bilingual form before 9 March 2010.

Yours sincerely,

Kitty Cheng  
Assistant Legal Adviser

c.c. CCS(1)1