



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF :
本函檔號 OUR REF : LS/B/15/11-12
電話 TELEPHONE: 3919 3509

傳真 FAX : 2877 5029
電郵 E-MAIL : kcheng@legco.gov.hk

By Fax (2761 5404)

29 May 2012

Mrs Chu Poon Kit Man, Hedy
Principal Assistant Secretary (Special Duties)
Housing Department
Special Duties Unit
11/F, Block 2
Housing Authority Headquarters
33 Fat Kwong Street
Ho Man Tin, Kowloon

Dear Mrs Chu,

Residential Properties (First-hand Sales) Bill

I refer to the discussions of the Bills Committee at the meeting held on 28 May 2012 about the investigation powers of the Authority (clauses 79 to 82 of the Bill).

Although legal professional privilege may well be protected under Article 35 of the Basic Law and clause 82 of the Bill provides for non-admissibility of self-incriminatory evidence in criminal proceedings, you may note that in view of the judgment of the Court of First Instance in *Pang Yiu Hung Robert v Commissioner of Police* (HCAL 133 of 2002), the Administration has, as a matter of prudent practice, included in bills and subsidiary legislation express provisions on protection of legal professional privilege, for example –

- (a) section 2(18) of the Organized and Serious Crimes Ordinance (Cap. 455);

- (b) section 8A(3) of the Fire Services Ordinance (Cap. 95); and
- (c) section 18(8) of the Buildings Energy Efficiency (Registered Energy Assessors) Regulation (Cap. 610B).

In this regard, I wonder if the Administration would consider including express provisions for the protection of legal professional privilege so that a person shall not be compelled to disclose any information or produce any document –

- (a) that he would on grounds of legal professional privilege be entitled to refuse to disclose or produce; or
- (b) that tends to incriminate himself.

I would be grateful for your reply in bilingual form at your earliest convenience.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Kitty Cheng', written in a cursive style.

Kitty Cheng
Assistant Legal Adviser

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