

政府總部
發展局
規劃地政科
香港花園道美利大廈



Planning and Lands Branch
Development Bureau
Government Secretariat
Murray Building, Garden Road
Hong Kong

本局檔號 Our Ref. DEVB(PL-CR) 2/15-08

電話 Tel.: 3509 8851

來函檔號 Your Ref. CB/1/SS/3/11

傳真 Fax: 2899 2916

12 December 2011

Miss Becky Yu
Clerk to Subcommittee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Miss Yu,

**Subcommittee on Building (Inspection and Repair) Regulation,
Building (Administration) (Amendment) Regulation 2011,
Building (Minor Works) (Amendment) Regulation 2011, and
Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011**

Administration's Response to Enquiry of a Member of Public

Thank you for your letter of 29 November 2011 forwarding us a letter from Mr Leung Chi-keung dated 24 November 2011. We are pleased to provide below the consolidated response from Development Bureau, Buildings Department and Home Affairs Department.

Under the Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS), all statutory notices will be issued to owners of the target buildings (i.e. owners' corporation (OC) or co-owner as regards common areas). Like any other general building management issue, any action of the OC in compliance with the statutory notices under the MBIS and MWIS (including repair works) should be taken in accordance with the relevant provisions of the Deed of Mutual Covenants (DMC) and Building Management Ordinance (BMO).

DMC is a document with binding effect on all parties who signed on it and their transferees and successors. Not only does it specify the common parts of the building, the parts for the exclusive use of individual owners and the undivided shares of each flat, it also sets out clearly the requirements and guidelines on various building management matters. It defines the rights, interests and obligations of the parties concerned among all the co-owners, the manager and also the developer of a building.

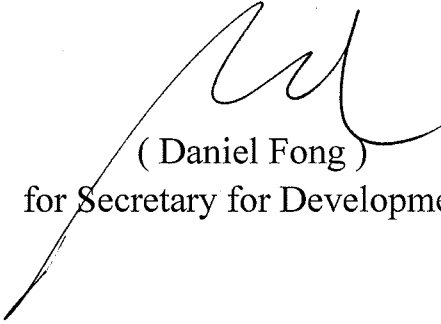
Under section 20A of the BMO, when the OC procures any supplies, goods or services the value of which exceeds or is likely to exceed the sum of \$200,000 or exceeds 20% of the annual budget of the OC (whichever is smaller), the procurement shall be obtained by invitation to tender. For supplies, goods or services the value of which exceeds 20% of the annual budget of the OC, whether a tender is accepted or not shall be decided by a resolution passed by a majority of votes at a general meeting of the OC. All OCs shall comply with the requirements of the provisions concerned during procurement of supplies, goods or services required.

In general, the management committee should refer to the DMC regarding the sharing of costs. If there is no DMC or the DMC does not provide for the method of sharing, the cost should be shared on the basis of undivided shares. Nevertheless, in view of the huge amount of maintenance costs, the management committee would in general make a resolution in the general meeting of OC regarding the payable amount of every household to enhance transparency. Owners should reflect their views on any matter on building management to the management committee. Upon request of not less than 5% of the owners, the chairman of the management committee shall convene a general meeting of the OC for specified purposes.

The legal provisions quoted and the reply above are not legal opinion and are for reference only. Should there be enquiries or doubts about the interpretation, application and legal obligation of the provisions

under legislation or DMCs, assistance from legal professionals is advised to be sought. Person in need could liaise with the Property Management Advisory Centres of the Hong Kong Housing Society for free advisory service of legal professionals.

Yours sincerely,



(Daniel Fong)
for Secretary for Development

c.c.

Director of Home Affairs
Director of Buildings

(Attention: Miss Crystal Yip)
(Attention: Mr SW Hui)