

# Chapter 9 Financial Arrangements for Owners' Corporation

Financial management is an integral part of building management. The BMO provides for the financial arrangements to be observed by OCs to ensure effective financial management and a sound financial position of the building.

Apart from reading this chapter, owners may also refer to “*Building Financial Management Toolkit*”, which is jointly published by HAD, the Independent Commission Against Corruption (ICAC), the Hong Kong Housing Society, the Hong Kong Institute of Certified Public Accountants and the Hong Kong Association of Property Management Companies. The publication provides practical guidance to OCs on financial management, as well as sample documents for preparation of budgets, income and expenditure accounts, etc. The publication can be downloaded from HAD’s Building Management website ([www.buildingmgt.gov.hk](http://www.buildingmgt.gov.hk)).

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## Opening a bank account

- An OC shall open and maintain an interest-bearing bank account in the name of the OC for keeping funds and meeting payments in relation to building management. The account shall only be used exclusively in respect of the management of the building.
- An OC shall, apart from retaining a reasonable amount to cover expenditure of a minor nature, without delay pay all money received in respect of the management of the building into the interest-bearing account.
  - ◆ The MC shall decide by a resolution the amount to be retained to cover expenditure of a minor nature;

**Section 20(3) and (7)**

**Section 20(4), (5) and (6)**

- ◆ The MC may also decide by a resolution any other conditions or arrangements for dealing with the amount of money, for example, whether the amount is to be held in the form of cash or paid into the current account of the OC.

## Establishment of funds

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- The funds to be established by an OC include –
  - ◆ a general fund;
  - ◆ a contingency fund.
- An OC shall establish and maintain a general fund –
  - ◆ to defray the cost of the exercise of its powers and the performance of its duties under the BMO or the DMC, such as the cost of employing caretakers and cleaners; **and**
  - ◆ to pay Government rent, premiums, taxes or other outgoings, including any outgoings in relation to any maintenance or repair works, which are payable in respect of the building as a whole.
- An OC may establish and maintain a contingency fund –
  - ◆ to provide for any expenditure of an unexpected or urgent nature; and
  - ◆ to meet any payments when the general fund is insufficient to meet them.

### Section 20(1)

### Section 20(2)

## Budget of an OC

- An MC shall prepare an annual budget for the OC showing the estimates of all expenditure items, irrespective of whether the expenditure will be paid by the general fund or the contingency fund.

**Sch. 5**

In general, the annual budget of an OC mainly includes the following items –

- ✓ salary, long service payment, mandatory provident fund and employees' insurance for the staff for the management of the building;
- ✓ expenses for repair and maintenance of the common areas and facilities;
- ✓ expenses for cleansing services and cleansing materials;
- ✓ costs of engaging professional services from lawyers and accountants, etc;
- ✓ utility charges such as water, electricity and telephone charges;
- ✓ fire insurance and third party risks insurance;
- ✓ Government rent, rates, stationery and miscellaneous expenses.

When preparing a budget and an estimate of expenditure for the coming year, the MC should take into account the expenditure of the preceding year, the proposed items to be added and deleted in the coming year, market prices and cost adjustments in response to anticipated inflation, etc.

- A revised budget may be prepared if the MC is of the opinion that any sum set out in the budget is insufficient to meet the expenditure.
- Any of the following persons may request in writing the OC to supply him with copies of the budget or revised budget of the OC –
  - ◆ an owner;
  - ◆ a registered mortgagee;

- ◆ the tenants' representative; or
- ◆ any person duly authorized in writing by an owner or registered mortgagee.

The treasurer of the MC shall, on the payment of a reasonable copying charge, supply such copies to that person.

The copying charge shall be determined by the MC. To enhance the transparency of the MC's financial management, the MC is advised to set the copying charge at a low level.

## Amount required to be contributed by owners

- The MC shall determine the amount to be contributed by the owners as a whole to the general fund and/or contingency fund based upon the OC's annual budget.
- If the subsequent amount determined by the MC increases by over 50% of the preceding amount, that subsequent amount shall be approved by the OC by a resolution passed at a general meeting of the OC.

**Section 21(1) and (4)  
and para 1 of Sch. 5**

**Section 21(1A)**

**If the OC's general and contingency funds are insufficient to meet the costs of non-statutory maintenance works for the building, and the MC has not included the maintenance costs when preparing the budget and when determining the amount to be contributed by the owners as a whole, can the MC subsequently increase the amount to be contributed by the owners as a whole?**

No. Having determined the amount to be contributed by the owners as a whole based on the budget, the MC shall not increase the amount. Any proposed increase in the amount shall be approved by the OC by a resolution passed at a general meeting of the OC.

**Section 21(2)**

- If the OC receives –

- ◆ an order of the Lands Tribunal; or
- ◆ any notice, order or other document served upon the OC in relation to the common parts by the Government or a public body under any Ordinance,

and the general fund and/or contingency fund is insufficient to meet any payment due by the OC in respect of the cost of complying with the said order, then the MC may increase the amount required to be contributed by the owners without approval from a general meeting of the OC.

- Having determined the amount to be contributed by the owners as a whole, the MC shall, in accordance with the DMC, determine the amount to be contributed by individual owner.

- If the DMC does not provide for the fixing of contributions, the MC shall, in accordance with the respective shares of the owners, determine the amount to be contributed by an owner.

- In addition, the MC shall determine at which time and in what manner the contribution is payable.

**Section 21(3)**

**Section 22(1)**

**Section 22(2)**

**Section 22(1)**

## **Recovery of contributions from owners by the OC**

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- The amount to be contributed by an owner shall be a debt due from him to the OC at the time when it is payable.

**Section 22(3)**

The owner shall, at such time and in such manner as the MC may determine, pay the amount on time.

- If an owner does not settle the amount payable, the OC may try to contact the owner to enquire about the case and urge the owner to pay the amount on time. The OC may also by notice in writing remind the owner to pay the outstanding amount.
- If the owner still refuses to pay the amount, the OC may through its legal representative apply to the District Court for an order demanding the outstanding amount from the owner for claims not exceeding \$1 million. For claims not exceeding \$50,000, the OC may recover the outstanding amount through the Small Claims Tribunal without the need to appoint a legal representative.
- In addition, the OC may also adopt the following courses of action to recover the outstanding amount –
  - ◆ If a DMC provides that if an owner fails to pay any sum which is payable under the DMC, a person may sell that owner's interest in the land or register a charge against such interest in the Land Registry, the OC may exercise such power in the same manner as if it were the person referred to in the DMC.
  - ◆ If any amount payable by an owner whose flat is rented out remains unpaid for a period of 1 month after it has become due, the OC may by notice in writing demand such amount from the occupier of the flat, who shall be liable to pay the same to the OC and shall pay the rent for the flat concerned to the OC instead of the owner of the flat.

#### **Section 19**

#### **Section 23**

## Accounts of the OC

- The MC shall prepare, within 15 months after the date of the registration of the OC and thereafter every 12 months, financial statements which shall be laid before the OC at the annual general meeting of the OC.

**Section 27(1)**

For this requirement, “flats” does not include any garage, carpark or carport.

**Section 27(1B)**

- In respect of a building which contains more than 50 flats, the financial statements shall be audited by an accountant retained by the OC by a resolution passed at a general meeting. The audited financial statements, together with the accountant’s report, shall be laid before the OC at the annual general meeting of the OC.

**Section 27(1) and (1A)**

- Financial statements

- ◆ shall be signed by –

- ✓ the MC chairman; **and**
- ✓ the MC secretary or treasurer;

**Section 27(1)(a)**

- ◆ and shall include –

- ✓ an income and expenditure account; **and**
- ✓ a balance sheet,

**Section 27(1AA)**

both of which shall give a true and fair view of the financial position of the OC.

- For each period of 3 months (or such shorter period as the MC may select), the treasurer shall prepare a summary of the income and expenditure of the OC in respect of that period, and display a copy of the summary in a prominent place in the building for 7 consecutive days within 1 month after that period.

**Para 2 of Sch. 6**

## Inspection of accounts

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- The MC shall maintain proper books or records of account and other financial records. It shall permit the following persons to inspect the books of account at any reasonable time –
  - ◆ an owner
  - ◆ a registered mortgagee;
  - ◆ the tenants' representative; or
  - ◆ any person authorized in writing by an owner or registered mortgagee.
- The persons listed above may request in writing the OC to supply them with copies of –
  - ◆ the financial statements;
  - ◆ the accountant's report (if the financial statements are required to be audited by an accountant under the BMO); or
  - ◆ a summary of the income and expenditure.

The treasurer of the MC shall supply such copies to that person on the payment of a reasonable copying charge.

The copying charge shall be determined by the MC. In order to enhance the transparency of the accounts of the OC, the MC is advised to set the copying charge at a low level.

- All bills, invoices, vouchers, receipts and other documents referred to in the books or records of account and other records shall be kept by the MC for not less than 6 years.

**Section 27(1) and (2)**

**Para 3 of Sch. 6**

**Para 1 of Sch. 6**

- If an owner wants to inspect the bills, invoices, vouchers, receipts or other documents referred to in the books or records of account and other records, he may adopt the following courses of action –
  - ◆ not less than 5% of the owners may request the MC to permit them or any person authorized by them to inspect the documents concerned; or
  - ◆ an owner may apply to the court for an order authorizing him or any other person named in the application to inspect the documents concerned. The court may make an order if it is satisfied that the application is made in good faith and is for a proper purpose.

On receipt of the request of not less than 5% of the owners or an order made by the court, the MC shall permit the relevant persons to inspect the documents concerned at any reasonable time.

5% of the owners means 5% of the total number of owners, without regard to the shares owned by such owners.



**Para 1A, 1B and 1C of  
Sch. 6**