

Chapter 2 Owners' Corporation

What is an Owners' Corporation?

An owners' corporation (OC) is a body corporate set up under the BMO. It has the legal status to represent all owners in managing the common parts of the building.

Why do we have to form an OC?

Hong Kong is a small place with a large population. Most people live in private multi-storey buildings or private residential estates with individual blocks of buildings. It is the joint responsibility of owners to manage and maintain the common parts of their building which they co-own.

Managing and maintaining a building is no simple task. It involves a myriad of matters, ranging from minor ones like cleansing and refuse clearing in the common parts of the building to major issues such as appointment of property management company and commission of major maintenance works. All these involve a decision-making process. For large residential estates with hundreds or even thousands of owners, it is difficult, if not impossible, to obtain unanimous consent from all the owners on each and every single building management matter. It is therefore necessary to put in place a mechanism to facilitate collective decision-making of owners on building management matters.

BMO is enacted to provide a mechanism for the incorporation of owners. The OC, being a body corporate, can deal with building management matters on behalf of all the owners. After an OC is formed, the owners may discuss various building management matters at the general meetings of the OC which are properly convened and held in accordance with the BMO. Any collective decision made at the general meetings of the OC shall be binding on all the owners.

Any provision in a DMC that operates to prevent the owners from being registered as a corporation shall be void and of no effect.

Section 34J(1)

Powers and duties of an OC

When an OC has been formed, the rights, powers, privileges and duties of the owners in relation to the common parts of the building shall be exercised and performed by the OC. The liabilities of the owners in relation to the common parts of the building shall also be enforceable against the OC.

Section 16

The OC shall therefore properly manage and maintain the common parts of the building, and do all things reasonably necessary for the enforcement of the obligations contained in the DMC for the control, management and administration of the building. In order to reduce the risks faced by owners in times of accidents, an OC shall procure and keep in force third party risks insurance in relation to the common parts of the building and the property of the corporation.

Section 18(1)

Section 28

The OC may decide whether to engage any paid staff member, property management company or other professional trade or person to assist in carrying out its duties or powers. The OC may also decide on matters related to the common parts of the building, e.g. provision of facilities or renovation, improvement or decoration work.

Section 18(2)

In the performance of its duties and the exercise of its powers, the OC shall be guided by the “*Code of Practice on Building Management and Maintenance*”. The Code of Practice is available at all District Offices and can be downloaded from the HAD Homepage on Building Management (www.buildingmgt.gov.hk).

Section 18(2A)

At a general meeting of the corporation, the OC may pass any resolution with respect to –

Section 14(1)

- the control, management and administration of the common parts of the building;
- the renovation, improvement or decoration of these common parts.

These resolutions shall be binding on the management committee and all the owners.

Management Committee

Building management covers a wide range of matters. It will be difficult to deal with these matters promptly and effectively if each and every single matter has to be decided by a general meeting of the corporation. Hence, a management committee (MC) is appointed to handle the day-to-day business of the OC. Under normal circumstances, the powers and duties conferred or imposed by the BMO shall be exercised and performed on behalf of the OC by the MC.

Section 29

All owners of the building are members of the OC. They may appoint any owner whom they think fit to be member of the MC by resolution passed at a general meeting of the OC. MC member has a fiduciary responsibility to all owners and should abide by the principles of openness, transparency, integrity and accountability in performing his duties and conducting the affairs of the OC.

