



本署檔號 Our Ref.

來函檔號 Your Ref.

電 話 Tel.:

傳 真 Fax:

July 2007

The Chairman,
Owners' corporation of [Name of Building],
[Address of Building]

Dear Sir/Madam,

**Transitional Arrangement regarding
Management Committees of Owners' Corporations
appointed under Deeds of Mutual Covenant**

As you may be aware, the Building Management (Amendment) Ordinance 2007 (Amendment Ordinance), which introduces amendment to a wide range of areas, will come into effect on 1 August 2007. For the appointment of a management committee (MC) and the formation of an owners' corporation (OC), the amended Schedule 2 to the Building Management Ordinance (BMO) provides that with the exception of the tenants' representative, all MC members shall be owners of the building, irrespective of the terms of the Deed of Mutual Covenant (DMC). The appointment of MC members shall be made under the BMO rather than the DMC.

According to the record of the Land Registry, most MCs are appointed under the BMO. Only around 60 of them are appointed in accordance with the terms of their respective DMCs. Their composition may differ, for instance, some comprise non-owners such as the spouse or adult children of the owners. The composition and procedure of such MCs are therefore inconsistent with the requirements of the amended Schedule 2 to the BMO.

To allow sufficient time for such OCs to appoint their MCs in accordance with the requirements of the amended BMO, a transitional provision is included in the Amendment Ordinance to provide for a transitional period of 4 years immediately after the commencement of the Amendment Ordinance during which the existing MCs appointed under DMCs can continue to adopt the provisions under Schedule 2 to the pre-amended BMO regarding the composition and procedure of the MCs. As these MCs have to comply with the requirements of the amended BMO when the transitional period expires,

the OCs concerned are advised to pass a resolution at a general meeting of the OC during the transitional period to comply with the amended Schedule 2 to the BMO regarding the composition and procedure of the MC.

The amended Schedule 2 to the BMO also provides that owners shall, by a resolution passed by a majority of votes, decide the number of MC members pursuant to the relevant provisions of the BMO. Besides, owners may, by resolution, decide whether to appoint a vice-chairman of the MC, irrespective of the terms of the DMC. To facilitate the appointment of members and office bearers of the MC, it is further provided that the "first past the post" system of voting shall be adopted for the appointment of the members, chairman, vice-chairman, secretary and treasurer of the MC. The requirements set out in the amended Schedule 2 to the BMO will certainly facilitate the smooth operation of the OC.

We note from the record of the Land Registry that your MC is appointed under the DMC. In this connection, we would like to draw your attention to the transitional arrangement set out in the Amendment Ordinance. During the 4-year transitional period, i.e. on or before 31 July 2011, your OC is required either:

- (1) to pass a resolution at a general meeting of the OC to comply with the amended Schedule 2 to the BMO regarding the composition and procedure of the MC, and take follow-up action, such as appointing owners to replace non-owners as members of the MC; or
- (2) at a general meeting of the OC at which members of the MC retire from office, to pass a resolution to comply with the amended Schedule 2 to the BMO regarding the composition and procedure of the MC, and appoint members of a new MC pursuant to the relevant provisions.

We strongly advise your OC to take either step as soon as practicable within the 4-year transitional period so as to comply with the provisions of the amended BMO regarding the composition and procedure of the MC. Otherwise, the validity of your MC, including that of the appointment of certain members of the MC, will be called into question when the transitional period expires.

For enquiries, please contact our liaison officer

District Officer