

Chapter I Building Management Ordinance

Objective

The Building Management Ordinance (Cap. 344) (BMO) was enacted to provide a legal framework for the formation of Owners' Corporations (OC) to facilitate effective building management. It also sets out the powers and duties of an OC and its meeting procedures so as to facilitate the day-to-day operation of the OC and compliance by owners.

Commonly used terms in the BMO

Building

In the BMO, "building" refers to any building which contains any number of flats comprising two or more levels, including basements or underground parking areas. Any land upon which that building is erected is part of the building.

Undivided shares

Ownership in a multi-storey building is generally expressed in terms of undivided shares. When an owner purchases a flat in a multi-storey building, he is not only entitled to the exclusive possession of his flat, but also jointly owns the common parts of the building with other owners of the same building. As the common parts are co-owned by all owners, the shares of the building are undivided.

The undivided shares of each flat are set out clearly in the deed of mutual covenant (DMC) of the building. Under most circumstances, the maintenance and management fees as well as the voting right of owners at a meeting of owners are determined on the basis of the undivided shares owned by him.



Deed of Mutual Covenant

A DMC is a private contractual agreement among all the co-owners, the manager and also the developer of a building. It defines the rights, interests and obligations of the parties concerned. In general, a DMC comes into effect on the date of execution by the developer and the purchaser of the first unit of the building and is binding on other subsequent purchasers. As with other private contracts, the terms of a DMC cannot be amended unilaterally without the consent of all parties to the contract.

A DMC is a very important document in the management of building. 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, but it also sets out clearly the requirements and guidelines on various building management matters. Hence, before purchasing a unit, owners should read the DMC or consult legal professionals on the terms of the DMC so as to have a full understanding of their rights and obligations associated with the purchase of the flat. Owners may obtain a copy of the DMC at the Land Registry Search Offices or through the online services of the Land Registry (www.iris.gov.hk).

Common parts

Apart from the parts specified for the exclusive use, occupation or enjoyment of an owner, all other parts of the building and those parts specified in Schedule 1 to the BMO, e.g. structural parts such as foundations, columns and beams, and lifts, gardens and clubhouses, are the common parts of the building. Owners may refer to the DMC to ascertain the common parts of their building.

Flat

In the BMO, “flat” means any premises in a building which are referred to in a DMC (whether described therein as a flat or by any other name and whether used as a dwelling, shop, factory, office or for any other purpose) of which the owner, as between himself and owners or occupiers of other parts of the same building, is entitled to the exclusive possession.