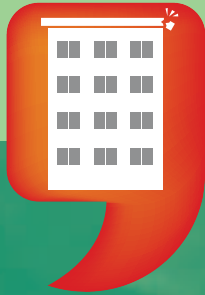


Home Affairs Department and Management of Private Buildings



民政事務總署
Home Affairs Department

Foreword

“Safety is a prerequisite for a pleasant residence”.

For most people in Hong Kong, purchasing a home is not only their wish but also the single most important decision on investment in their life. Only with effective building management may the owners and occupiers enjoy a pleasant and comfortable living environment, and ensure that their assets will not be unduly affected as a result of a lack of proper management and maintenance.

Government Policy

It has always been the Government's policy to encourage and assist owners to form owners' corporations (OCs) for effective building management. In this regard, the Government's role is a "facilitator", who will assist owners in discharging their management responsibilities through various measures, including the provision of a statutory framework and support services.

Key Messages

- It is the responsibility of property owners to manage and maintain their own properties;
- Active participation and involvement of residents in building management are in their own interests;
- OCs facilitate effective building management;
- District Offices (DOs) will assist owners to form OCs, but cannot assume building management responsibilities for them;
- It is the responsibility of property owners to monitor the operation of the OCs while DOs will provide support services.

Role of the Home Affairs Department

An OC is a statutory body on building management registered under the Building Management Ordinance (BMO). It possesses an independent status and the requisite powers of a corporate body. Under the BMO, the management committee (MC) of an OC has the powers and responsibilities to handle, on behalf of the OC, matters relating to the management and administration of the common parts of the building, including repair works, maintenance of fire safety equipment, insurance, cleanliness, security, etc.

To encourage property owners to form OCs and manage their buildings properly, staff of the District Building Management Liaison Teams (DBMLTs) under DOs, with the assistance of the Community Organisers, will:

- visit private buildings in the districts to introduce to owners good building management practices;
- advise owners on the procedures of the formation of an OC;
- issue exemption certificates to the convenors of the meetings of owners for obtaining a free copy of record of owners of the building from the Land Registry for the purpose of convening meetings to form an OC;




- attend meetings of owners upon invitation and give advice to owners as and when necessary;
- assist owners in applications to the Secretary for Home Affairs (SHA) for an order to convene a meeting of owners under Section 3A of the BMO;
- organise training courses, seminars, talks and workshops on building management to provide training for members of MCs;
- organise educational and publicity activities and produce a series of publications and videos on building management;
- handle enquiries and complaints relating to building management;
- assist law enforcement departments on matters on building maintenance and fire safety improvements; and
- help resolve disputes among owners, OCs and management companies.

The main duties of Community Organisers are to conduct household visits and surveys and maintain close contact with owners and OCs. They will attend meetings of owners as and when necessary.

Case 1

Interpretation of Legal Provisions



OC Chairman: Our building will launch a major maintenance project. Could staff of the Home Affairs Department (HAD) help interpret the provisions in the relevant legislation or maintenance contracts for the OC?

Staff of HAD would advise OCs to take note that the requirements on procurement of supplies, goods and services under the BMO should be complied with. For instance, any procurement exceeding \$200,000 or of a sum exceeding 20% of the annual budget of the OC, whichever is the lesser, should be procured by invitation to tender. For any procurement exceeding 20% of the annual budget of the OC in value, selection of tender should be made by owners at a general meeting of the OC.

Staff of the HAD are not legal professionals. They cannot and should not make interpretation or decision regarding legal provisions or private contracts. Interpretation of legal provisions, such as the provisions of the BMO, or private contracts, such as the Deed of Mutual Covenant of a building or maintenance contracts, should be done by legal professionals or authorised professionals. OCs should consult such professionals in cases of doubt.



Case 2

Building Management Responsibilities



Owner : My building has long been lacking management. I worry that it will fall into disrepair. Could HAD help us handle building management and maintenance matters?

Management of private properties is the responsibility of the owners. For proper building management, owners may form an OC. An OC is a statutory body on building management registered under the BMO, which possesses an independent status and the requisite powers of a corporate body. Under the legal framework provided by the BMO, owners may appoint an MC to make decisions on building management matters on behalf of the OC.

DOs will provide liaison and advisory services to the parties concerned; however, they cannot and will not assume management responsibilities for owners.



Case 3

Arbitration for Building Management Disputes



OC member : We, OC members, serve our building and participate in building management on a voluntary basis. Due to the recent rising inflation, we passed a resolution to increase the management fees at an MC meeting, which is challenged by some owners. Could staff of HAD arbitrate the matter?

In the event of disputes over building management issues, staff of HAD will assist in a fair and impartial manner and do their best to help owners resolve the issues. However, they cannot make a ruling. If the parties concerned are willing, they may consider settling the disputes through professional mediation service. In addition, the Lands Tribunal has jurisdiction over building management issues. Owners may apply to the Lands Tribunal for a hearing and determination on disputes.



Case 4

Inspection of the books of accounts of an OC



Owner : The OC of my housing estate has not laid before the owners the financial statements well after the required date, which is in contravention of the BMO. I request the SHA to inspect the books of accounts of the OC.

Under the BMO, the SHA may only exercise such power when major irregularities have occurred in the control, management or administration of a building, for the purpose of ensuring proper building management, preventing safety hazards and protecting the interests of owners.

The SHA will be prudent in considering the specific circumstances of each case, including whether the allegation is true, whether the provisions confer such power, whether the contravention is deliberate, whether other owners are aware of the contravention and the reasons for it, whether the contravention causes any harm to other owners, whether improvement has been made by the MC upon advice by the DO, etc. The SHA will also consult the Department of Justice as and when necessary before deciding whether relevant legal action should be taken.



Case 5

Handling Instruments Appointing Proxies (Proxy Forms)



Owner : During a recent general meeting of owners, the MC chairman determined that some proxy forms were invalid and the proxies concerned could not vote on behalf of the owners. Some owners queried the chairman's decision and opined that the voting results might be affected. Could staff of HAD determine the validity of the proxy forms?

Paragraph 4 of Schedule 3 to the BMO provides that an owner may cast a vote personally or by proxy at a meeting of the OC. The MC chairman or, if he is absent, the person who presides at the meeting, shall determine the validity of the proxy forms received in accordance with the requirements of the BMO. The considerations include the requirements that a proxy form (1) shall be in the form set out in Form 2 in Schedule 1A of the BMO; (2) shall be signed by the owner, or if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorised by the body corporate in that behalf; and (3) shall be lodged with the MC secretary at least 48 hours before the time for the holding of the meeting.

The BMO does not empower staff of HAD to determine the validity of the proxy forms. If owners have any doubts about the proxy forms, they should raise them with the MC, or resort to the Lands Tribunal for determination.



Case 6

Monitoring the Operation of the OCs



Owner: My building has an OC and is operating well. However, in a recent tender exercise for maintenance works, even though a resolution on the works items has been passed at a general meeting of owners, and the contractor for the works has been selected, some owners are still arguing over the matter. Could staff of HAD assist the OC in monitoring building maintenance so as to settle unnecessary arguments?

Private buildings are the private properties of the owners. The owners are responsible for managing the common parts of the building and monitoring the operation of the OC. Staff of HAD cannot assume the responsibility of monitoring the OC for the owners. If owners have any views on matters relating to the management of their building, they should raise them directly to the MC. They may also exercise the powers conferred on owners by the BMO to make requests to the MC chairman by not less than 5% of the owners to convene a general meeting of owners to work out a solution.



Enquiries

For enquiries on building management matters, please contact DBMLTs :

DBMLTs	Telephone No.
Central & Western	2119 5010
Eastern	2886 6569
Kowloon City	2621 3406
Kwun Tong	2171 7465
Sham Shui Po	2150 8175
Southern	2814 5762
Wan Chai	2835 1999
Wong Tai Sin	3143 1159
Yau Tsim Mong	2399 2155
Islands	2852 4318
Kwai Tsing	2494 4543
North	2675 1719
Sai Kung	2163 9431
Sha Tin	2158 5388
Tai Po	2654 1262
Tsuen Wan	3515 5654
Tuen Mun	2451 3466
Yuen Long	2470 1125

Building Management Website
<http://www.buildingmgt.gov.hk>

Concluding Remarks

The Government attaches great importance to building management work. With continual developments in society and rising living standards, there are higher aspirations for quality accommodation, which brings about increasing concern over building management and awareness of the importance of OC. Effective building management hinges on the earnest co-operation of all owners in fulfilling their responsibilities and participating actively in the management of their buildings. The HAD will continue to enhance communication with owners and provide liaison and advisory services for them.

Home Affairs Department

July 2011