

**Views of the Chartered Institute of Housing Asian Pacific Branch
to the LEGISLATIVE COUNCIL PANEL ON HOME AFFAIRS on the
“Review of the Building Management Ordinance” (Cap. 344) –
Further Legislative Proposals and Administrative Measures”**



The Chartered Institute of Housing (CIH) is an international institution for housing managers with membership of over 20,000 world-wide. The Asian Pacific Branch of CIH was setup in 1966 in Hong Kong and has a wide representation of professional housing managers in the Asian Pacific Region. Our members in Hong Kong are involved in the management of residential, commercial and industrial buildings as well as other facilities both in the public and private sector.

The Chartered Institute of Housing Asian Pacific Branch welcomes the continual revision of the Building Management Ordinance (BMO) to keep up with the rapid economic and social change of Hong Kong in providing quality property management services for a better living environment.

With the increasing need of major repair and maintenance as our housing stock ages, we understand the concern of both the general public and property owners on the process of making decision on large scale repair and maintenance. The current practice of 10% of ownership shares as the quorum for general meetings of owners' corporations, as stipulated in paragraph 5(1)(b) of Schedule 3 to the current BMO, may not be high enough to protect the interests of the majority of owners on decision making on large scale maintenance as well as improvement works. Hence, we support the proposed amendment of raising the quorum on general meeting of the owners' corporation if the meeting involves resolution on large scale repair, maintenance and improvement works. We also support the tightening up of proxy arrangement to require at least 10% of the owners to attend the relevant meetings in person. However, we would also like to alert the government the difficulties in mobilising the participation of owners to satisfy the quorum requirement for general meetings and more education for owners may be necessary.

However, we have **STRONG RESERVATION** on the proposal to extend criminal liability currently applicable to Management Committee members of the owners' corporations to the DMC Manager and Property Management Company if they fail to produce annual audited accounts or audited accounts as required by contract, proper safekeeping and circulation of minutes of Management Committee or Owners' Corporation meetings or tender documents. In fact, the DMC managers or the property management companies do not have full control on the production and circulation of such documents and hence it is unfair to make them accountable to wrongdoing of other parties who are involved in the process. The law is also effective enough to cover the act of fraud or negligence of the DMC managers or the property management companies. There appears to be no urgent need to extend the criminal liability as proposed. Criminal liability also would not help to mitigate the problems of property management. For the same argument, we support the lifting of criminal liability on members of the management committee of owners' corporation in the revised legislation.

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英國特許房屋經理學會亞太分會就立法會民政事務委員會
檢討《建築物管理條例》(第 344 章) —
有關進一步立法建議及行政措施的內容提出意見



Asian Pacific

英國特許房屋經理學會(CIH)乃國際性的專業團體，從事房屋管理專業的會員遍佈全球，會員人數已超過 20,000 人。本學會之亞太分會早於 1966 年已在香港成立，在亞太區的專業房屋管理行業中具廣泛的代表性。亞太分會的香港會員活躍於本港公營及私營房屋市場，管理的物業包括住宅、工商業樓宇、設施管理等。

英國特許房屋經理學會亞太分會歡迎政府持續檢討及修訂《建築物管理條例》(《條例》)，以迎合香港迅速的經濟及社會環境變化，提升房屋管理服務的質素，為市民締造更理想的生活環境。

我們明白隨著本港樓宇的樓齡與日俱增，大型維修工程的需求有增無減，公眾及業主們對大型維修工程的議決過程的關注也越趨提升。現時《條例》附表 3 第 5(1)(b)段規定，業主大會的法定人數須為業主人數的 10%，因此當表決大型維修工程或改善工程等重要議程時，以現行規定之 10% 的業主人數或其委任代表出席已可作議決，實不足以保障大部分業主的利益。有見及此，我們支持政府的修例建議，提高有關工程在業主大會議決時所需之法定人數要求由 10% 至 20%。同時，我們亦支持政府收緊委任代表文書的安排，同意當法團需要就「大型維修工程」通過決議時，在 20% 會議法定人數中，須有至少 10% 業主親自出席。但同時我們也希望提醒政府，提高業主大會法定人數會減少召開大會的成功率，政府應同時加強教育，提高業主的參與意識。

不過，我們對修訂建議中將目前適用於管委會委員的刑事法律責任擴大至涵蓋公契經理人或物業管理公司有**強烈保留**，建議中提出，如公契經理人或物業管理公司未能按規定提交經審計的周年帳目或經審計的帳目；未能遵守傳閱及保存管委會或法團會議紀錄、保管招標文件的規定等，需付上刑事法律責任。事實上，公契經理人或物業管理公司並非可完全控制此等文件的擬制、傳閱及保管過程，如因過程中牽涉其他人士而導致有違《條例》的規定，但最終將責任歸究於公契經理人或物業管理公司，實在有欠公平。現行的法律制度其實已足夠而有效地監控公契經理人或物業管理公司的行為是否失當或疏忽，因此政府實無迫切性按修例建議將刑事法律責任擴大至涵蓋公契經理人或物業管理公司，此舉亦無助解決房屋管理的問題。基於同樣的理據，我們建議在是次《條例》修訂中，應同時豁免管委會委員於此等條文中的刑事法律責任。

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