

Legal Seminar for Chartered Institute of Housing Asian Pacific Branch

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May 2022

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PART 1

OVERVIEW ON DEFAMATION

Meaning

What is defamation?

- Defamation is an untrue statement that damages the Plaintiff's reputation and has been communicated to a person other than the Plaintiff.

- Defamatory statements are “*words that tend to lower the Plaintiff in the estimation of right-thinking members of society generally*”. The statement might also be defamatory if it would cause the Plaintiff to be “*shunned or avoided*” or when it is calculated to hold the Plaintiff up to “*hatred, contempt, or ridicule*”.

Who can sue and be sued?

- Living persons and corporations (including incorporated owners under the Building Management Ordinance), trade unions, etc. can sue for defamation.

- The Plaintiff may have a claim against anyone participating in the chain of publication of the defamatory statement, including the author/speaker of the statement and anyone participating in its distribution, even if he is just a mere repeater.

Elements of defamation

- The Plaintiff has to prove: -
 - (i) there is a defamatory statement (i.e. the ordinary and natural meaning of the statement as understood by a reasonable man would carry the libelous meaning);
 - (ii) the statement refers to the Plaintiff; and
 - (iii) the statement is published or conveyed by the Defendant to some third party.

- Regardless of whether the Plaintiff intended to defame another person or not, as long as a reasonable man would understand the ordinary and natural meaning of the statement as defamation, the statement can be a defamatory statement.

Libel and Slander

- Defamation can be in permanent form (e.g. writing) or transient (oral).

- Libel refers to a statement published in permanent form, for example, in books, films, newspaper and internet postings. It is said to be “*actionable per se*” in law (i.e. by itself and without proof of any damage).

- By contrast, slander refers to a transient statement, for example, spoken words. Subject to some exceptions, slander generally (though not always) requires proof of actual loss suffered by the Plaintiff before it is actionable.

PART 2

USUAL DEFENCES OF DEFAMATION

Justification

- The defence of justification applies if it can be proved that the statement in question is true or substantially true.

Qualified privilege

- The defence of qualified privilege may sustain if there is a legal, social or moral duty or interest to publish the statement, and it is only published to people with a corresponding duty or interest to receive it.

- The statement should also be made honestly and without any malice.

Fair Comment

- For a defence of fair comment to succeed, the statement must be an honest comment or opinion on a matter of public interest and based on facts which are true or protected by privilege.

- The comment must also indicate the facts on which it is based and be set in such a context so as to put the reader or listener in a position to reach their own view about whether the comment is well-founded.

Statutory Defences

- e.g.: Section 29A of Building Management Ordinance

S.29A of BMO

- “ (1) No member of a **management committee**, acting in good faith and in a reasonable manner, shall be personally liable for any act done or default made by or on behalf of the corporation—*
- (a) in the exercise or purported exercise of the powers conferred by this Ordinance on the corporation; or*
 - (b) in the performance or purported performance of the duties imposed by this Ordinance on the corporation.”*

Woo Tak Yan v Lam Sik Chuen
(2011)

- The Management Committee displayed a document entitled “No-Confidence Motion” issued in the name of the Incorporated Owners in respect of two members of the Incorporated Owners (including the Plaintiff) regarding default in payment of management fees by the Plaintiff, who was also the treasurer of the Management Committee.

➤ The Motion included the following statements:-

- “胡司庫在會議中曾向律師，其他委員及房協管理層面前先後確認已繳交管理費，事實上沒有，公然說謊。”
- “未有履行司庫職務(不接收有關文件)...本會於本年5月12日致函胡司庫及後6月29日管委會會議上向胡司庫交收有關文件，惟遭胡司庫拒絕。故此，胡司庫至今仍未有接收有關文件。”
- “胡司庫曾於本年8月9日凌晨時份以法團名義於各座地下大堂信箱及樓層派發宣傳單張。惟本會從未有此安排，亦對有關單張內容一概不知。”

- The Plaintiff claimed that the Motion contained defamatory words and sued another member of the Management Committee (Defendant).

- The Court held that in addition to the defences of justification and qualified privilege, the Defendant could also make out a defence under Section 29A of the Building Management Ordinance, since he was acting in good faith and in a reasonable manner in discharge of his duties as a member of the Management Committee at the material times, the Defendant should be absolved from any personal liability.

Leung Chi Ching Candy v
Yeung Hon Sing (2019)

- The chairperson of the management committee of the Incorporated Owners published six articles containing statements that are alleged to be defamatory of the former chairperson of the management committee.

➤ The statements include the following :-

- “「...俾你做主席，妳乜都唔做；淨係要每戶夾萬六蚊，個個都話妳係，咁多個主席當中，妳最古惑、最夠膽去掠水...」”
- “此舉完全違反招標程序和公平原則...坊間業界也鄙視富怡的招標黑幕... 事態相當嚴重，也太過明目張膽，廉正公署亦進行調查...”
- “...有人為了搶奪法團，一年來（已經第三次）誤導業主簽名...當中發現冒簽...職業攪事份子，當然是為了爭奪法團，爭甚麼？當然是為了利益...”

- The former chairperson brought an action against the sitting chairperson for defamation.

- The Court held that since Section 29A is only applicable where the defendant acts in good faith and in a reasonable manner, the defence is not available in the present case, as the Defendant made attacks on the Plaintiff's personality, integrity and character and knew that his claims had no factual basis.

PART 3

DEFAMATION ORDINANCE (CAP. 21)

Statutory definition of **Defamation**

- Section 2 of the Ordinance provides that for the purposes of discussing defamation, “*words*” (言詞) includes pictures, visual images, gestures and other methods of signifying meaning.

- The Ordinance made it clear that “*words*” would include some other possible means of publication

The publication of libel
known to be false

- Section 5 of the Ordinance makes it clear that any person who maliciously publishes any defamatory libel and who knows that the libel is false will be liable for up to 2 years' imprisonment and in addition to pay such fine that the court may award.

Admissibility in evidence of an apology

- Section 3 permits a person to give evidence of an apology made for the defamation before the court action has begun or as soon afterwards as possible, but this is only for the purpose of mitigating damages.

- Section 4 allows a defendant to rely on a defence for libel contained in a newspaper that the libel was published without actual malice and without gross negligence, that he put in the newspaper a full apology for the libel before the court action was commenced or as soon afterwards as possible, and that he has paid money into the court by way of amends.

- Section 25 also allows a defendant, in case of unintentional defamation (i.e. he did not intend to defame the plaintiff), to raise a defence that he published the defamatory words innocently in relation to the plaintiff, if he also pays a sum of money into court as an “offer of amends” as soon as practicable after the defendant knows of the defamation.

- An offer of amends means an offer to publish a suitable correction of the defamatory words and a sufficient apology to the plaintiff, and if copies of the document containing the words have been distributed with the defendant's knowledge, to take such steps as are reasonably practicable to notify persons who have received the distributed copies that the words are alleged to be defamatory of the plaintiff.

- It should be noted that the Apology Ordinance (Cap.631) was enacted in 2017 which primarily enables a person to make apology under certain circumstances without incurring liability (merely because of the apology).

- The Apology Ordinance makes it clear in section 11(b) that it does not affect the operation of sections 3, 4 or 25 of the Defamation Ordinance.

PART 4

DECIDED CASES

Pac Fung Feather Co Ltd v The
IO of Hoi Luen Industrial
Centre & Anor (2021)

Background

- The Plaintiff is an owner of a flat in the suit building of which the 1st Defendant was the IO. The 2nd Defendant was the chairperson of the management committee of the IO.

- The IO received a letter from the Buildings Department that unauthorized building works blocking the common corridor and access to the fire exit were discovered and must be cleared.

- The IO requested the Plaintiff, who had built the walls forming the blockage, to rectify the situation by written notices which were ignored by the Plaintiff. The IO then painted a notice in red paint on the walls, which the Plaintiff painted over, and the IO posted a notice on the walls, which the Plaintiff took down.

- The IO posted a notice on the Ground Floor, which stated that (i) the Plaintiff was occupying about a thousand square feet of common parts and blocking the fire exit; (ii) the Plaintiff had damaged notices issued by the IO, with four criminal damage cases reported to the police; (iii) the Plaintiff's conduct was extremely contemptible as it seriously affected safe fire escape and she delayed in responding to the IO's demands; and (iv) the IO was considering taking legal action against the Plaintiff.

- The IO posted another notice, which was 1.4 metres x 2 metres in size, on Ground Floor and onto the exterior wall of the building, and also included remarks in their Chinese newsletter that the Plaintiff's encroachment included 2 sections of the fire escape was estimated to amount to 2,000 square feet.

- The Plaintiff sued the IO and its chairperson for defamation, specifically with regards to their statement that the Plaintiff's encroachment amounted to 2,000 square feet when this was not factually true.

Decision

Defamatory Meaning

- The offending words should be construed in their natural and ordinary meaning, which is the meaning in which reasonable people of ordinary intelligence, with the ordinary person's general knowledge and experience of worldly affairs, would likely to understand them.

- A reasonable person would consider that conduct by an owner encroaching on common parts of nearly 1,000 or 2,000 square feet as unlawful, selfish and inconsiderate, not to mention the IO's condemnation of the Plaintiff's conduct as being extremely despicable. The IO's statements were found to be defamatory in nature.

- It is sufficient if the substance of the libel is justified. There is no need to prove peripheral facts that do not add to the defamation or introduce any matter that might give rise to a separate action.

Justification

- In this case, the court opined that as the notices had mentioned substantial occupation of the common parts, the impact provided by the allegation that the occupation blocked off an area of 1,000 or 2,000 square feet was not as sharp or distinct and there was no need for justification for that specific phrase “由於[原告人]的行為極度卑劣，霸佔公家地方近二千呎”。 Therefore, the defence of justification succeeds.

- The court referred to section 26 of the Defamation Ordinance and found that even though the area of encroachment was in fact a little under 300 square feet, because an area of this size was already substantial and because of the Plaintiff's conduct in relation to the works, the IO's statement did not cause material injury to the Plaintiff that it did not already suffer.

Qualified Privilege

- Further, the IO and its chairperson were under a duty to take all reasonable steps concerning managing the common parts, including communicating with the owners and occupiers information and warnings in respect of any risks in safety in the building, and the owners and occupiers all had a reciprocal interest to receive this information.

- The Plaintiff argued that by posting several large notices in the common parts of the building, even visitors of the building would see the notices, so the IO's conduct exceeded the reasonable limit of qualified privilege.

- However, the court held that the IO had the right to communicate this information through posting notices in the common parts of the building, particularly as the previous notices posted on the encroaching walls had been taken down by the Plaintiff. The additional exposure to visitors would not be substantial.

- As a result, the IO and its chairperson also succeeded in the defence of qualified privilege when the notices did not exceed the reasonable limit of the privilege. While the IO was factually wrong in their statement about the encroachment covering 2,000 square feet, they were just objectively wrong and careless, which would not be sufficient to constitute malice and deprive them of the defence.

- The court dismissed the Plaintiff's claim and ordered the Plaintiff to pay the legal costs of the IO and its chairperson.

Tsui Wai Yip v Lam Mo Chiu
(2021)

Background

- The Plaintiff and the Defendant are both owners in the suit building. The Defendant was also the chairman of the management committee of the IO of the building.

- The minutes of an Annual General Meeting of the IO included the following statement (**First Statement**):-

First Statement

- “由於有業主多年來一直拖欠法團的管理費及大維修工程分攤費, 法團為各業主利益及公平起見, 因此, 向該些業主採取法律, 以追討欠款, 此外, 本廈B座1/F 8室業主霸佔大廈公眾平台並加建房屋, 法團曾多次以口頭及書信要求該業主將僭建屋拆走, 但該業主不但沒有理會, 更向法團提出反申索, 法團已入稟「土地審裁處」, 有關的訴訟仍在進行中, 而現時法團仍有多宗訴訟正在進行中, 包括:
DCMP 1381/2011 (梁美春案)
LDBM 134/2011 (李健秀案)
LDBM 3333/2011 (徐偉業案)
2465案在高等法院進行中(地下停車場薛秀明)
主席強調, 由於有一小撮業主經常企圖擾亂本廈的正常運作, 令法團多年來面對多宗不必要的訴訟, 引致法團的支出增加不少。”

- The minutes of another Annual General Meeting of the IO held two years later included the following statement (**Second Statement**):-

Second Statement

- “關於區域法院案件編號3333/2011徐偉業案, 本法團在案件開始時, 本法團不想在財政上遭受不必要的損失, 已與徐偉業道歉及講和, 但徐偉業不接受, 並誣蔑法團各委員, 更茅頭直指法團主席及秘書, 目的是想搞亂本大樓之正常運作, 而直接影響的必定是本樓各業主之利益, 後經區域法院判決徐偉業輸, 但徐偉業不服上訴高等法院, 案件編號CACV27/2015判徐偉業勝訴並要求法團賠港幣\$200,000元給徐偉業。法團會遵從法庭判決, 但法團會再上訴。在2015年11月25日法庭頒令, 徐偉業可以向法團追討訟費, 但必須在14天內, 並必須列出追討訟費理據並交於上訴庭, 與此同時, 法團也可以在14天內駁斥徐偉業。”

Decision

Defamatory Meaning

- The court held that the First Statement, when read in the proper context, was not defamatory of the Plaintiff because an ordinary, reasonable and fair-minded reader would have found out that the First Statement as a whole contains several parts and might not be referring to the Plaintiff.

- As for the Second Statement, the court held that while the contents were defamatory, but the Defendant's defences of justification, fair comment and qualified privilege were accepted.

Justification

- With respect to the defence of justification, the court held that the whole of the First and Second Statements can be justified by facts.

Fair Comment

- As the First and Second Statements were made when the Defendant was chairman of the management committee of the IO, he was reporting on various matters relating to the management of the suit building and merely discharging his duty as chairman and reporting a matter of public interest to the owners and residents of the suit building attending the general meeting.

- There was also no evidence to show that the Defendant did not honestly hold the view he expressed or that he was acting in malice, or that the First and Second Statements were based on untrue facts. As such, the First and Second Statements would be a fair comment which could have been made by an honest and reasonable person.

Qualified Privilege

- The Defendant, as the chairman of the management committee of the IO at the time, had the moral and social duty to make a comment relating to the relevant matters and the owners and residents had a corresponding interest in receiving his comments at the AGM.

- As there was insufficient evidence to establish that malice was the Defendant's dominant motive or that the Defendant did not believe the First and Second Statements were true, the defence of qualified privilege was available to the Defendant.

- In view of the above, the court ordered that the Plaintiff's case be dismissed and that the costs of the Defendant be paid by the Plaintiff.

Leung Chi Ching Candy v
Yeung Hon Sing (2019)

Background

- The Plaintiff was the chairperson of the management committee of the IO of Cheerful Garden in 2011-2012, and the Defendant held the same position from 2010-2011 and 2012-2015.

- While the Plaintiff was the chairperson, she proposed a major renovation of the Estate and invited tenders for a consultant and contractors for the proposed renovation.

- Subsequently, when the Defendant was elected as the chairperson, the major renovation was voted down by the majority of the owners. It was alleged that the Plaintiff and her supporters organized various disturbances and harassing events in the Estate in an attempt to force the Defendant to vacate from the office as chairman and for the Plaintiff to be re-elected in his place.

- The Defendant published six separate articles about certain wrongdoings by the Plaintiff concerning the major renovation, tender process for selection of a consultant for the security service contract, and various allegations about the Plaintiff's behavior and character and general negligence as chairperson of the IO.

- All six publications were sent to the owners of the Estate by way of leaflets minutes of 10 general meeting which recorded certain words spoken by the Defendant in the meeting and a letter enclosing extracts of the said minutes.

➤ The 1st article contained the following statements:-

- “「...俾你做主席，妳乜都唔做；淨係要每戶夾萬六蚊，個個都話妳係，咁多個主席當中，妳最古惑、最夠膽去掠水...」...過去數月，每當會議舉行，她們帶隊搗亂生事，語言暴力，橫行無忌...這一切都是貽害了富怡居民利益。我們...承諾於任期內緊守崗位...不會讓貪婪的、暴力的人得逞...希望...一起杯葛和對抗暴力者。”

➤ The 2nd article contained the following statements:-

- “違反招標程序

東窗事發，廉署介入...此舉完全違反招標程序和公平原則...坊間業界也鄙視富怡的招標黑幕... 事態相當嚴重，也太過明目張膽，廉正公署亦進行調查...”

➤ The 4th article contained the following statements:-

- “...有人為了搶奪法團，一年來（已經第三次）誤導業主簽名...當中發現冒簽...職業攪事份子，當然是為了爭奪法團，爭甚麼？當然是為了利益...齊心譴責野蠻行為，一同鄙視破壞秩序的滋事份子...絕不能讓別有用心的人，掌管富怡法團，他們食髓知味，必定狠狠的斬殺富怡這塊肥豬肉，翻炒天價維修...”

➤ The 5th article contained the following statements:-

- “期間發出多份信件歪曲事實，污衊法團。又上門滋擾業主...
2011年梁志貞就任法團（後補）主席後，隨即又銳意促成大維修...其工程費用報價，估計可能高出市價近1,000萬元。”

- The Plaintiff sued the Defendant for defamation, and the Defendant raised the defences of qualified privilege, justification, and fair comment.

Decision

Justification

- The defence of justification failed because the Defendant was unable to prove that the relevant statements were true.

Qualified Privilege

- The defence of qualified privilege also failed because the statements were made with malice. The court held that the Defendant knew that his statements were false and were not published with a proper purpose like enabling an uninhibited and two-way opportunity for concerns or matters about the management of the Estate to be addressed.

Fair Comment

- Most of the defamatory stings were imputations of fact and not comments. Furthermore, there was no factual basis to support the Defendant's allegation that the Plaintiff had not properly discharged her duties as a chairperson.

- The court entered judgment against the Defendant in the sum of HK\$400,000.00 and granted an injunction to restrain the Defendant from publishing the 6 articles or similar words or representations defamatory of the Plaintiff.

*Tam Heung Man v The IO of
Lung Poon Court (Blocks A-F)*
[2019] [REF 8]

Background

- The Plaintiff was a District Councillor and the Defendant was the Incorporated Owners (IO) of the suit estate.

- The Plaintiff issued a Working Report containing issues relating to her work as a District Councillor in the estate, after which the IO published two Notices.

The 1st Notice

- “業主大會將至 議員又搞風搞雨
身為區議員...不應在區內搞風搞雨、斷章取義、無事生非、製造混亂、全心阻礙本苑日常運作，務求破壞屋苑安寧，以達致個人宣傳目的...
該議員不斷向東華投訴本法團籌款違規，侮辱所有籌款義工。在該議員不斷阻撓下，去年最終只籌得五萬多元...
該議員積極投訴及阻撓法團，大大減少善款幫助有需要人士... 難道該議員沒有功績可尋，要借助法團的日常運作，充當成自己功勞?
...議員誣蔑法團「排除異己」、「滅聲封殺」等字句，有意煽動民意，離間法團與業戶的關係，乘機干預屋苑事務，達到個人目的。
某議員除積極搗亂屋苑和諧外，更將前區議員...及法團前屆管委會的功績據為己有...冒領工...

The 1st Notice

據聞該議員於2011年尾上任後，將商場原用西醫診所的舖位，佔用為議員辦事處，西醫診所被迫遷上二樓，有需要之長者病人須步行數十級樓梯才可到達診所，令病人更加苦不堪言...

...惟該議員經常挑撥業戶，灌輸錯誤資訊予無知人士，意圖帶頭搞亂屋苑正常秩序...該議員為滿足個人及少部份人士的私慾，而要眾業戶無辜受累，這就是該議員的所作所為。

...該議員2011年上任後，不斷製造事端，浪費納稅人大量資源，刻意破壞本苑秩序，現在更藉着議員工作報告，發表不盡不實及斷章取意的謬論，誣衊法團，誤導群眾，再一次破壞屋苑安寧，使屋苑變成是非之地，極度影響屋苑形象。本法團絕不容許任何政黨及惡勢力粗暴干預法團及屋苑日常運作..."

The 2nd Notice

- “某議員再次搞風雨 破壞屋苑安寧

本區某議員近日又再破壞本苑和諧安靜，搬弄是非...再一次突顯該議員為求自我宣傳，而無風起浪及誤導業戶。該議員...胡亂向公眾發放錯誤訊息，製造混亂。該議員一直不休止地打擊本法團，現時甚至抹黑屋苑管理公司，嚴重影響員工士氣及法團形象，亦間接令業戶服務受影響。本法團認為該議員的不擇手段行為，目的是為自我宣傳，達到其政治目的，該議員所謂為民請命，實為破壞社區和諧及安寧。

自該議員上任後，近兩年多來不斷製造事端，刻意破壞本苑十多年的良好秩序及和諧，發表不盡不實及斷章取義的謬論，誤導群眾，使屋苑變成是非之地，極度影響屋苑的聲譽。本法團絕不容許任何政黨及團體粗暴干預法團及屋苑日常運作...”

- The Plaintiff sued the IO for defamation and the IO raised defences of justification, qualified privilege, and fair comment.

Decision

Justification

- The defence of justification failed because the IO did not identify what meanings they were seeking to justify, but even if that were not the case, the Court held the justification defence would still fail because the IO was unable to prove that the statements were true.

Qualified Privilege

- While the Notices did relate to the affairs of the Estate and were published by the IO to all the owners of the Estate and were published on occasions of qualified privilege, the defence of qualified privilege failed because the statements were made with malice.

- The Court held that in publishing the Notices, the IO knew that the statements in the Notices were false or they were reckless as to the truth and falsity of the statements.

- Furthermore, as the allegations in the Notices were grossly exaggerated and were false and defamatory of the Plaintiff, the Court held that the IO's sole or dominant motive was to harm the Plaintiff. As such, the IO was held guilty of malice and the defence of qualified privilege was not made out.

Fair Comment

- Similarly as with the defence of justification, the defence of fair comment failed because the IO failed to identify the comment which they seek to say attracts the fair comment defence, but the Court added that even if the defence of fair comment is available to the IO, the defence would also be defeated by malice.

- The court entered judgment against the IO in the total sum of HK\$800,000 with interest. This is comprised of \$200,000 in general damages for each of the Notices and a further \$200,000 in aggravated damages for each of the Notices, since the IO published the Notices with malice and did not offer any apology to the Plaintiff and threatened to institute further defamation proceedings against her.

PART 5

ANALYSIS OF ACTUAL CASE SCENARIOS AND POINTS TO NOTE BY PROPERTY MANAGERS

- Other than the decided cases discussed above, libel claims may arise in the context of building management under various factual scenarios

Examples

- A former employee of a management company makes adverse comments on the company's performance and conduct while managing the estate.

Examples

- An owner in a housing estate publishes statements in letters sent to the other owners of the estate or in the media or by notices posted in public streets, making various accusations against the manager of the estate.

Examples

- IOMC member posted up a notice in the common part of the building making various accusations against a former employee of the IO, with a view to explaining to the owners and residents why the employee was dismissed.

- See below sample demand letter issued by lawyers and written apology of defendants published as a term of settlement in libel cases.

敬啟者：

有關：閣下於[]年[]月[]日於 WhatsApp「[]」（「該群組」）中發佈的文字訊息

本行代表[]先生/小姐(以下統稱為「**本行當事人**」)，分別為[]大廈(「**該大廈**」)業主立案法團的管理委員會委員。

該群組共有[]名成員，所有人均為該大廈的業主或租戶或佔用人。於[]年[]月[]日[]時[]分，閣下於該群組中發出以下文字訊息：-

「[]」（「**該文字訊息**」）

就該文字訊息的普通及自然涵義，對一個合理客觀的該群組成員來說，包括以下各項：-

...

本行當事人強烈否認該文字訊息及閣下相關的指控。由於該文字訊息已公開發佈於該群組，閣下的行為在法律上已構成對本行當事人的誹謗，並對他們造成損害。因此，本行現代表本行當事人要求閣下立即：-

1. 書面承諾終止對本行當事人進行任何誹謗行為；
2. 無條件地以書面確認該文字訊息內容全屬虛構，並完全撤回閣下對本行當事人所作上述所有指控；
3. 向本行當事人就閣下是次的誹謗行為書面致歉；
4. 書面承諾就該文字訊息的發佈對本行當事人所造成的損害，包括對他們聲譽所造成之損害作出彌償，包括但不限於本行當事人就此事所耗之法律費用；
5. 就以上第 1 至 4 項，草擬相關文書供本行審閱，經本行修訂及書面同意其內容後，閣下須簽署所有文書（統稱「**該等承諾書**」）以確認其內容；
6. 授權及同意本行當事人發佈該等承諾書予任何本行當事人認為恰當

【道歉聲明】

有關：針對[原告人機構]的言論

本人，[姓名]，曾於[日期]致[屋苑名稱]各業主的信件，及於[日期]的[廣播機構及節目名稱]的節目內對[原告人機構]所作出一些沒有事實基礎支持的言論，現特發此聲明澄清及謹向[原告人機構]致歉。

有關言論如下:-

...

本人在此承認，並作出嚴正聲明，所有上述言論均沒有任何事實基礎支持，純為本人的猜測。本人現在無條件地完全撤回上述言論，及同意向[原告人機構]作出賠償，並在此就以上言論對[原告人機構]及其派駐到上述屋苑的職員造成的損害或困擾，表達最深切及誠懇的歉意。

Sample of Written Apology
(for reference only)

Dear Sirs,

I write this letter to convey my sincere apologies for my defamatory statements made against your company in the notice I wrote and posted up in the building on [DATE].

Those statements include: -

[]

I confirm that all the said defamatory statements are unfounded and untrue, and I hereby apologize for damaging the reputation and goodwill of your company as a well-established and professional property management company.

I hereby retract all the said defamatory statements and I undertake that I shall not publish any such statements or otherwise commit any libel against your company in future.

Once more, please accept my sincere apologies and I will compensate your company fully for all the incurred costs for your legal action taken against me arising from the said defamatory statements.

Thank you for your kind understanding.

Points to Note

- Do not publish or convey any statements which may be libelous even if requested by IO or OC or any owner or occupier.

- Avoid making subjective comments while making publication to owners, only stating objective facts which are capable of being proved if required.

- Do not exaggerate matters or attack other persons' conduct or integrity

- Limit the scope and manner of publication on a need-to-know basis.

- Publications circulated internally within the management company or within the management committees or owners' committees may also constitute libel.

- Publications made through internet (e.g. whatsapp, facebook, emails) may constitute libel.

Assessment of Damages

- The assessment of damages in a libel case will usually be limited to general damages, which will compensate the claimant for the effects of the defamatory statement. The amount awarded will depend on the claimant's conduct, credibility, position and standing, the subjective impact of the libel he suffered, the nature of the libel, the gravity of the libel, the method and extent of its publication, the absence or refusal of any retraction or apology, the defendant's conduct, and any other relevant factors.

- Aggravated damages can additionally be granted if there is any additional injury caused to the claimant's feelings by malice in the publication or by the defendant's conduct after the publication of the defamatory statements, such as his persistence in an unfounded assertion that the publication was true, his refusal to apologize, or cross-examination during trial in a way that is wounding or insulting to the claimant.

- As a general note, taking a defamation case to court will require substantial money and time and will put a lot of pressure on the parties. Even if the claimant wins the lawsuit, the amount of damages awarded may not be sufficient to pay the taxed-off legal costs (the net amount of legal costs the successful plaintiff has to bear after recovery against the defendant), resulting in a lose-lose situation for both parties.

- While there are certainly considerations of reputation and protection of goodwill involved, for example when a lawsuit is necessary to protect the good reputation of the manager or IO or to clear misunderstanding, it may be advisable to avoid libel litigations without good reason to pursue them.

《END》

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These notes are for reference only and should not be relied upon to resolve any dispute. If an actual case arises, please consult legal opinion. Full judgments of the Hong Kong cases may be downloaded from the website www.judiciary.gov.hk.