



August 2006

Publication of Chartered Institute of Housing Asian Pacific Branch 英國特許房屋經理學會亞太分會刊物

Development

Of Housing Management In Asian Pacific Region







NEW FACES OF HOUSING EXPRESS

nformation technology (IT) has advanced our communication efficiency and our Housing Express is also prepared to exploit this to our advantage. With months of hard work, our IT committee has successfully relaunched our APB website and set up CIH email for every member. This allows us to disseminate the most updated information about CIH and particularly APB in a timely way. Starting from June this year, we have made some effort in introducing a new format for Housing Express, via email, to deliver updated information on a more regularly basis. Not only can the latest news and activities of the branch reach you quickly, you are also able to register for new events on time. The e-copies of Housing Express will be published in the middle of each month and be delivered to your CIH email address. You can also instruct the system to forward the e-copies to your

regular email address to ensure that you will not be losing important information from APB. We know that you prefer informative, attractive yet concise messages, so the e-copies will contain only highlights of upcoming events and activities that are held in the past month, you can then follow the hyperlinks on the newsletters for other details that are available on our newly revamped website.



Yet, whilst IT and the e-version enhance delivery efficiency, it can never replace the meaning that messages in physical hard copies can deliver. Hence, we will still keep the paper version of Housing Express, with more indepth coverage on professional issues. In this issue, the theme is "Housing Management Development in the Asian Pacific Region" with articles being written by experts of housing management in the respective places. We will also have a professional knowledge corner in which very informative and relevant legal cases will be presented. As the official publication of APB which will also be sent to our friends in the Region, we will include in each special issue a comprehensive coverage of our activities in the preceding six months as a record of our effort.

Our next issue will be published in around February 2007. While the special theme of that issue has yet to work out, it would likely be focused on the 40th anniversary of APB, the most important event for the Branch for the rest of the year. We welcome any suggestions and contribution. If you have any ideas on the theme for the next issue, or any other comments on Housing Express, please email me (sayip@cityu.edu.hk) or let Carey know (apb@cih.org.hk).

Dr Yip Ngai Ming Chairman, Publications Committee



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Message from the Chairman

Dear Members,

It has been five years since our Branch was renamed the "Asian Pacific Branch" in 2001, and now we are eagerly awaiting the coming of our 40th birthday in November. In recognition of the marked achievement of APB, our Headquarters in Coventry has announced that it will hold its Council Meeting in Hong Kong. A delegation of around sixty council members, headquarters staff and their spouses will come to Hong Kong to participate in a series of activities including our 40th Anniversary Housing Conference and the joint dinner with HKIH to be held at the Holiday Inn Golden Mile Hotel. This is going to be a memorable occasion in the history of APB and also a milestone in the development of professional housing management in Hong Kong.

In these few months, Hong Kong has seen the inauguration of the second phase of CEPA which further strengthens the ties between Hong Kong and China in areas of trade, transportation, tourism, finance and reciprocate recognition of a diversified disciplines of professions in both territories. The

Institute is optimistic that housing management practitioners in Hong Kong will eventually be accepted as having the same professional status as our Chinese counterparts for practising in the mainland.

Our Institute at the same time has also been striving in further advancement and development, on a national and international basis. Our joint professional property management course with the Wuhan University has entered into the second year and we can expect to play host to some of its outstanding students when they visit Hong Kong on an orientation programme towards end of this year. We have been actively assisting the Macau Property Management Association and the Housing Bureau of Macau in their bid to launch a training course for their property management practitioners. Graduates of this programme are expected to have attained a level of qualification recognizable by the Macau SAR for future licensing purpose. A delegation from APB also visited our counterparts in Taiwan in May in an exploratory tour to study their





professional training. Hopefully, we can export our expertise in housing management education to the island of Formosa very soon.

Locally, our Training Officer has been busy validating housing management course of the Opening University of Hong Kong. Discussions are also underway with the Hong Kong Polytechnic University and the Vocational Training Council on programme validation and related matters.

Members are aware that we have recently moved to our new joint office in Shui On Centre. The new office is more accessible via public transport and is equipped with training facilities to cope with the rising demand for training and CPD requirements.

Members of our Institute continue to participate in the various advisory bodies, to attend public forums, and to help channeling our members' views to the Government on important policy issues. These include matters relating to Mandatory Building Inspection Scheme, the Amendments to BMO, the Kai Tak Development, the Tamar Site Development, the West Kowloon Cultural District Development and the others.

I am delighted to see that our Institute and members have broadened our sphere of development into the Asian Pacific Region, continued to enrich our professional knowledge in the industry and contributed to community affairs that would enhance the living quality of the people of Hong Kong.

In the advent of APB's 40th anniversary, I am soliciting your full support to make our Housing Conference and Annual Dinner on 24 November, 2006 a great success.

L'a fre

Mr Ricky Yuen Chairman Chartered Institute of Housing Asian Pacific Branch

香港物業管理新路向

◇ 訪問 - 葉毅明 黃吳詠琪 整理 - 盧亮初

隨著社會演進和需求改變,「與時並進,力 臻完美」這類前進式的發展理念原則,其本上已 成為各行各業的金科玉律。作為一門要求嚴謹和 專業化的行業,物業管理也不能例外,必須從傳 統的「以物業為本」的大廈管理模式,邁向一個 更專業和多元化的新路向。

然而,物業管理的未來路向,該朝著怎麼 樣的目標發展,才能達致以上效果?資深物業 管理專才杜彼得曾這樣說:「我想現時private housing的management,其重要性的比例日漸 降低,反而最重要的是人的management,至於 physical management,已經變得次要。」

杜sir的一番話,已概略地勾劃出物業管理未 來路向的藍本。就著這個發展路向,置邦物業管 理服務總監伍慧兒作了更深入的補充,直指客戶 要求、市場競爭、政府政策、智能化物業發展及

科技高速發展等因素,均加速了物業管理由傳統 「以物業為本」的管理模式,日常工作主要集中 於保安、清潔、維修及簡單的財務會計工作等, 逐漸轉型為「以客戶為尊」的專業管理概念。

伍慧兒分析説,社會變遷、人文思想進步、 科技發展和通訊發達,造就了物業管理專業大幅 轉型的環境。相對過往較被動的角色,業戶對物 業管理的參與意識增強,要求的服務層次越來越 高,期望的服務內容越來越多,業主立案法團與 物業管理公司之間的磨擦,時有所聞。因此,物 業管理從業員必須具備優秀的溝通技巧來處理人 際關係,物業管理公司亦花盡心思去提供基礎管 理以外的增值服務來滿足客戶的需求,例如為物 業開源節流,減輕業戶的財政負擔。優質而令客 戶稱心滿意的管理服務,已遠遠不止於保安、清 潔等基本項目。

因此,照顧生活每一細節的多元化家居服務,成為了現代物業管理必要拓展的範疇。這類多元化增值服務範圍十分廣泛,包括家居維修清潔、室內設計裝修、上門收送洗衣服務、搬屋及傢具存倉、報紙雜誌訂閱、汽車清潔美容、郵件代寄、郵票代售、鮮花果籃送遞、旅遊服務等等,皆是對住戶十分貼心的服務。很多大型屋苑設有專用資訊網站,隨時發佈如設施維修進度等有關屋苑的最新消息及社區資訊,業戶也可透過網站繳交管理費和預約家居服務及會所設施。此外,廿四小時客戶服務中心及投訴熱線更能全天候為住戶處理問題,加強管理公司和住客以及業主立案法團之間的溝通。

另一方面,由於香港地少人多,建築物密度 高,政府對規管物業越來越嚴格,目前有關的法 例及規章超逾六十條,涵蓋各個不同範疇,例如 大廈公契、建築物管理條例、保安及護衛服務條 例,令物業管理行業的自我監督變得更為嚴謹和 全面,令整個行業走向更專業一途。與此同時, 亦間接加強物業管理的環保意識。

事實上,在環保意識日益抬頭下,業戶在環境衛生與環保管理方面的要求不斷提高。物業管理公司除了執行基本的清潔工作外,還要在物業範圍進行綠化,優化景觀兼改善空氣質素。為了支持環保,物業管理公司利用不同途徑回收可循環再用的廢物,並將各種回收活動得到的回扣費,撥歸大廈賬目用作管理費,既響應環保,亦增加大廈收入。物業室內範圍的設施亦必須達到節省能源的目標。裝設紅外線感應器的扶手電

梯,在未有使用者時會降低速度或停止運作,減 省電力消耗。照明系統節能鎮流裝置及中央空調 水泵智能控制系統,能適當地調控光線與室溫, 有效地節約能源。設有雨水循環再用系統的物 業,更收集雨水作沖廁用途,並提供灌溉用水, 避免浪費食水。

除要不斷提升物業管理的技巧和手法外, 物業管理公司還須面對同行的激烈競爭,所以 物業管理公司必須確立自己的企業品牌,樹立 專業形象,提高管理水準,成為客戶的信心保 證。受政府、業界及公眾認同的管理系統, 成為現代物業管理公司必備的武器。現時物 業管理業界中最流行的是由國際標準組織(The International Organization for Standardization)所發 展的ISO9001:2000及ISO14001管理體系標準。 ISO9001:2000是品質管理標準,企業須按照要 求建立出質量管理體系,經認證機構評審合格後 發給證書,證明企業的質量系統達到此國際標準 的水平。ISO14001則是環境管理標準,是誦過 策劃、執行、檢查及糾正與評審的結構化方式, 來促成企業對環境的持續改善的系統。此外還有 OHSAS18001職業健康及安全管理體系,目的是



透過管理減少及防止意外而導致生命、財產、時間的損失,以及對環境的破壞。具規模的物業管理公司會將此三種不同的管理點及標準要求一體化,以一個系統去管理品質、環境及職業健康及安全等不同方面,以便更有效地提升管理效率。

除了取得國際水平的管理系統認證外,物業管理公司還會於組織內實踐高效率的管理策略。在許多國際大企業如美國通用電器、摩托羅拉及花旗銀行等都得到驕人實績的六西格瑪(Six Sigma, 6 o)管理法,是現代企業趨之若鶩的管理方法。六西格瑪是用統計方法,通過解決問題工具和預防問題工具來消除和防止在過程、產品、服務、文件及決策中發生的缺陷,以實現接近零缺陷的完美質量水平。此外,以全員參與為基礎,不斷改善產品服務的質量水平,以滿足顧客的需求的全面質量管理(Total Quality Management),以及適用於任何業界的五常法(常組織、常整頓、常清潔、常規範、常自律),皆為物業管理公司採用的先進管理方法。

現代建築物越來越多採用智能化設計,由中央電腦監控大廈的冷氣、消防、照明、水泵、升降機等設施,以獲得最佳效益。管理員在巡邏時利用內聯電子手帳收發訊息,提供更省時、更高效率的管理服務。功能強大的電子/語音(IVRS)報更系統,能夠隨時隨刻準確地監察員工的當值狀況,並能及早對事故作出即時對策。充分發揮互聯網功能的智網管理系統,利用網絡科技連接大廈各個獨立系統,以便總公司和管業經理能夠遙距監察大廈設施及保安系統。業戶亦可使用這系統來掌握大廈的資料及聯繫當值工作人員與物業管理公司。

物業管理屬一門專業,運作流程繁複,加上在業務運作時所涉及的各種人和事,實非想像般簡單輕鬆,是一門吃力不討好,但要求極高,從業員態度要一絲不苟的工作。正如市區重建局地方發展推行顧問莫耀光認為,物業管理從業員「要有一種質素,一種appetite,才做到這工作,能接受別人責罵,只希望完成工作。」他憂心新一代的物業管理從業員,在心理質素上,或未能完全達致上述的嚴謹要求。

為提昇從業員的專業水平和服務質素,以應付各式各樣的需要,不少物業管理公司現時均設有內部培訓中心,教授員工管理實務、突發事件應對技巧、顧客服務、投訴處理、危機處理、電腦科技應用等工作上必須的技巧。本港的大學及教育機構亦有開辦不同程度的物業管理課程,物業管理從業員可由此獲得認可的專業資格。

有遠見的物業管理公司為了加強與業戶的 聯繫,會以積極態度採取主動,通過籌辦各種活 動及興趣班和發行屋苑通訊,提供遊玩和消閒資 訊,不斷為客戶帶來多元化增值服務。還會以領 先的觸覺,利用問卷調查及家訪,時刻關注客戶 需要,超越其要求。

物業管理公司為了妥善管理物業,必會尋找 風險可能發生的地方,對物業作風險評估及制定 安全工作指引,訂立緊急事故處理程序及應變措 施,並培訓工作人員進行風險監控。

不少新建樓宇已預設寬頻上網及收費電視網絡,整棟大廈甚至整個屋苑連成一資訊網絡,方便管理及訊息交流,這將成為未來建築物的必然趨勢。硬件的進步必須要軟件來配合,未來對物業管理從業人員認可專業資格的要求定會越來越高和嚴格。

香港物業管理新路向

物業管理行業正全速發展,惟它的前景如何?未來是否不會萎縮?前房屋署副署長林有元認為:「(物業管理)前景是好的,因為香港是high density living,管理是一定需要的。」他續解釋:「因為新建樓宇固然要管理,年事已高的舊樓也要管理。」對於近日成為城中熱門話題的強制舊樓檢查維修計劃,林sir深信「強制驗樓及維修」定會實行。但舊式單幢樓宇單位數量不多,財政上未必能聘請管理公司獨立管理,屆時或會以整條街為單位進行管理。

無論社會如何變遷,物業管理作為一門專業,未來仍有很多發展空間,前景亦非常樂觀。 身為物業管理行業的一分子,不論這個行業的層 次推展至甚麼程度,為業戶服務,滿足其無限需 求的中心思想,其本上是不會有所改變。在種種 條件推動下,未來的物業管理運作必會邁向更規 範化、社會化、專業化、電子化及人性化的方向 發展,管理的內涵更加豐富,範疇更加廣闊。





◇ 住宅與房地產雜誌社副總編 張紅喜

去年11月16日,根據《物業管理條例》的有關規定,為規範物業管理行為,國家人事部和建設部聯合發佈《物業管理師制度暫行規定》(以下簡稱《暫行規定》)及與之配套的《物業管理師資格考試實施辦法》(以下簡稱《考試辦法》)和《物業管理師資格認定考試辦法》(以下簡稱《認定考試辦法》)。

《暫行規定》對在內地從事物業管理工作的專業管理人員實行職業准入制度,並明確要求物業管理項目負責人應當由物業管理師擔任。同時,《暫行規定》還要求,物業管理師資格實行全國統一考試制度,原則上每年舉行一次。經考試合格的即可獲得《資格證書》,取得《資格證書》的人員經註冊後方可以物業管理師的名義執

業。具體考試科目、管理辦法等在《考試辦法》中均有詳細規定。同時,為鼓勵那些已在物業管理行業工作過多年、擁有豐富實踐經驗的優秀"老物業管理人",《認定考試辦法》則規定了一系列嚴謹、符合實際而又簡便的考取《資格證書》的條件和措施。

另外,凡符合考試報名條件的港澳居民,也可申請參加內地物業管理師資格考試。至於臺灣地區和外籍專業人員申請參加資格考試、註冊和執業等,則需國家另行制定管理和考試辦法。

應該説,《暫行規定》的頒佈實施是繼《物業管理條例》出台以來,對內地物業管理行業的發展最具有影響力的一件大事。它不僅理順了內

地行業專業管理人員的教育培訓和管理體制,同時也通過考試、註冊、執業等的具體規定,將對行業專業人員的教育、繼續教育及管理、考核、獎懲等相互連接,對目前在全國範圍內大力提升物業管理服務水平和規範物業管理服務行為等均起到了積極促進的作用。

一、《暫行規定》理順了內地物業管理行業專業 管理人員的教育培訓和管理體制。

《暫行規定》實施前,關於內地物業管理 行業專業管理人員的從業資格問題一直懸而未 决。作為物業管理行業主管部門,為提高專業管 理人員的工作能力和素質,他們很早就有"上崗 證"的培訓;作為勞動管理部門,他們在幾年前 也有"物業管理員、物業管理師"的培訓。那 麽, "究竟以何種培訓為主、以取得哪個部門的 證件為有效"的爭論一直甚囂塵上。從內地行業 反映來看,大家比較認同的還是"上崗證"的培 訓,參加的人員也多。但是作為勞動管理部門, 他們也有對那些不拿"物業管理員、物業管理 師"資格證而從事物業管理工作的人員或聘請這 些人員的企業進行行政處罰的權力。因此,很長 一段時間,內地對於物業管理專業管理人員的培 訓和管理工作一直處於一個比較混亂的狀態,令 到內地許多物業管理企業和員工感到無所適從。

《暫行規定》雖然沒有明確提到勞動部門的培訓和發證問題,實際上在其實施後等於廢除了勞動部門關於物業管理員、物業管理師的一系列培訓和發證制度。比如,《暫行規定》第二條明確規定,"本規定適用於在物業管理企業中,從事物業管理工作的專業管理人員。"對於物業管理師的考前培訓,該規定實行的是"自願"制度(見《考試辦法》第十條)。

至於內地物業管理行業主管部門的各種崗位培訓,《暫行規定》採取的辦法是"有機銜接"。比如,在《認定考試辦法》中關於"認定考試申報條件"就有如下規定內容:取得建設部頒發的物業管理經理崗位培訓合格證書。但同時,我們也可以認為,如果獲得了《暫行規定》認可的資格證書,並經註冊後執業的物業管理專業管理人員,也就不必要再參加什麽崗位培訓了。

因此,《暫行規定》的頒佈實施,內地物業管理行業取得的最為直接的效果就是理順了多年糾纏不清的專業管理人員的教育培訓和管理體制,為企業和員工掃除了自身提高和發展的人為障礙。

二、《暫行規定》加強了對內地物業管理行業專業管理人員的垂直管理,有利於提升物業管理專業管理人員的能力和水平。

《暫行規定》實施前,內地物業管理行業主 管部門只是通過資質、評優等手段對企業實行監 管,至於專業管理人員,也只是通過崗位培訓和



上崗證的發放等間接手段進行鬆散的監管。甚至 於其後專業管理人員在日常工作中的表現,行業 主管部門根本缺乏手段對其進行直接的監管。

《暫行規定》實施後情況則大有不同,行業主管部門可以通過物業管理師的考試、註冊、執業等制度,完成對專業管理人員的垂直管理。比如,該規定明確了物業管理師的執業範圍,並要求物業管理項目管理中的關鍵性文件,必須由物業管理師簽字後實施,並承擔相應法律責任。

由此可見,《暫行規定》的頒佈實施,從事 實上改變了過去內地行業主管部門對於專業管理 人員長期存在的監管空白的局面,將有助於加強 主管部門對於行業人力資源狀況的了解,從而更 好地制定行業發展政策和措施。同時對於專業管 理人員而言,也有助於增加其進一步學習提高的 壓力,最終是提高了全行業的管理和服務水平。

三、《暫行規定》直接促成了內地物業管理職業 經理人群的大量出現,為內地物業管理模式 的多元化發展奠定了堅實的基礎。

《暫行規定》實施前,內地物業管理行業已經認識到"物業管理項目經理"這一職位的重要性,但無法改變這一職位人才短缺的窘境,並且由於這一職位人才的流動性過大等問題,導致企業不敢下本錢對這一職位在崗人員進行大量的培訓和教育,造成惡性循環,項目經理人員素質相對每況愈下,數量相對越來越少。

《暫行規定》實施後,將直接改變內地物業管理行業這一惡性循環的窘況。比如,該規定明確要求,物業管理項目負責人應當由物業管理師擔任。一方面,大量的人才通過物業管理師的考試直接進入到行業中來,另一方面,具有執業資格的物業管理師的大量進入,不僅滿足了企業對於項目經理人才的渴望,而且還不用企業在培訓項目經理人才方面花費大量的時間和金錢。同時,由於專業執業資格的獲取是物業管理師個人的事情,與服務的企業干系不大,二者之間的依附關係進一步減輕,有利於項目經理的流動,這在一定程度上會促成物業管理職業經理人群的大量出現,將是內地物業管理行業進一步輝煌發展的前兆。

但是,這種局面的形成,不等於內地物業管理市場馬上就會出現如"律師事務所"一樣的"物業管理事務所"體制。因為《暫行規定》中對於註冊物業管理師的執業資格及範圍等問題的描述,依然是被限定在內地既有的單一的物業管理公司模式下。比如,該規定明確要求,物業管理師只能在一個具有物業管理資質的企業負責物業管理項目的管理工作。說得更清楚點就是,註冊物業管理師個人如果不通過物業管理企業,是不能從事物業管理工作的。

如果硬要總結《暫行規定》對於內地物業 管理的未來發展將會帶來哪些更為深層次的影響 的話,我們只能這樣說,因為獨立的物業管理職 業經理人群的大量出現,我們有理由期待在未來

《**物業管理師制度暫行規定》**實施後 對內地城市物業管理的影響

將會突破目前內地單一的物業管理公司模式,而 向主要由業主自管、執業物業管理師個人代管、 物業管理公司全面接管等組成的複合物業管理模 式前進!因此,且無論《暫行規定》是在什麼樣 的限定條件下出台的,它的廣泛深入實施,必將 為內地物業管理模式的多元化發展奠定堅實的基 礎。 總之,《暫行規定》通過對物業管理師的考試、註冊和執業等的明確規定,給內地物業管理 行業插上了科技發展的翅膀,為專業管理人員持續提高自己的管理能力和服務水平提供了巨大平 台,是內地物業管理規範、健康、永續發展的有力保障。

四、《暫行規定》提升了內地物業管理行業的形象和地位,對內地物業管理的規範發展和持續提高均將起到積極的促進作用。

《暫行規定》實施前,內地人們對物業管理 行業的印象多是技術含量低、人員素質低、工資 待遇低等"三低"形象,同時由於物業管理行業 實際上處於房地產業鏈的最後一環,其創造的價 值與房地產業根本無法相比,因此內地物業管理 行業的社會地位不高,社會形象不好,這已成困 擾內地業內人士的一塊"心病"。

《物業管理條例》的出台,從國家立法的 角度提升了物業管理的行業形象和社會地位;而 《暫行規定》的實施,則從專業技術角度給了物 業管理行業一個很大的提升空間。也就是説,物 業管理行業不再是內地人們眼中的那個技術含量 低的勞動密集型服務業,而是需要有國家認定的 專業技術人才才可以從事的新型服務業。這種判 別的高低,對於樹立和培養行業從業人員的自信 心和事業心具有差別極大的價值。

澳門物業管理 需有完善的法例去規範/監管 每濱花園個案看修改完善 法例的必要性

◇ 澳門物業管理業商會供稿

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近年,澳門經濟飛速發展,部分行業受惠, 部分的市民增加收入,亦增加消費,聯同自由行 的消費效應,促進市面繁榮,促進外來投資,從 而形成持續性的良性經濟發展大好形勢。

然而,我們必須看到及正視經濟發展的不平衡,在整體經濟發展的大環境中,仍有部分行業包括物業管理行業未有受惠,或者因經濟發展引致的人力資源緊缺而經營更加困難。

2005年尾,特區政府房屋局完成機構與職能的重組,依法可行使協調、監管私人樓宇管理事務的權力。在此之前,房屋局只是監管社會房屋(解決貧困人仕居住問題的公營房屋)和經濟房屋(政府以合同形式委托私人發展商興建的低價樓宇)的物業管理事務,而佔澳門物業市場大部分分額的私人樓宇是未有政府專門機構全面監管其物業管理事務的。

正因近年在很多的私人樓宇大廈出現了管理經營權益、管理質素、維修費用、欠交管理費等各類糾紛,反映出行業需要規範、監管並完善有關法例的必要性,特區政府房屋局重組後,現正草擬專門的物業管理法例,及大廈維修費用貸款的辦法,顯示政府規範、監管行業的工作正逐步開展。

業界對此深表歡迎,均認為公權力的介入 比較有利於解決大廈管理事務中的各類糾紛、矛 盾。如果有公權力的介入、監管大廈首次召開業 主大會及其後業主管理委員會的運作,將可比較 有保障地依循法定的程序行事,對於大廈的小業 主及管理實體均有保障,符合雙方的利益,才可 促進物業管理行業向著專業化、提高服務質素的 方向發展。

新的物業管理法例出台之前,現時主要以 〈〈民法典〉〉第1313條至1372條和第41/95/M號 法令作物業管理事務的法律依據。我們認為,有 關的法例欠缺完善,對物業管理實體經營權益保 障不足,令到管理公司是在不知何時、隨時會被 大廈某些攪事分子炒走的不確定環境中求生存、 求為大廈服務,致令行業經營者對經營前景失去 信心,既不利於自身公司業務發展,亦不利於促 進行業發展。在這種沒前景的經營背景下,誰願 意再作出新的投資,以不斷提升服務質素呢? 〈〈民法典〉〉有關條例賦予小業主管理大廈 公共事務的權利,其中的條文對召開業主大會、 行使管理機關權力等有較詳盡的規定,但對小業 主或管理機關成員應盡的義務及行使權力後應負 起的法律責任以及如何去監管其行使權力的過程 則少有提及或無具體條款,更未提及對原管理實 體經營權益、對大廈的投資、未收管理費等的 保障。因此,法例對各方利益者的保障側重點不同,加上有人誤導小業主,以個別人的意願權充 小業主的意願,引致與原管理實體的糾紛,進而 引發大廈管理權的紛爭。

最經典的例子是海濱花園的個案。海濱花園是澳門較大的屋邨,於2003年11月曾召開業主大會,其合法性備受小業主及管理公司質疑,以致需經法院判決。該次大會成立的管委會決定解僱第一間的管理公司,委托第二間的管理公司接管。第一間管理公司以業主會成立程序未合法定程序決議無效,故拒絕撤出。2004年1月,該管委會和其委托的第二間管理公司在某立法議員見證下,强行進駐大廈,開始一座大廈兩個管理實體,小業主不知向那個交管理費的局面。此雙管局面有17個月,第一間公司維持提供原有標準的服務,繳交大廈公共水電費及各設施保養費、



維修費;第二間公司則只是派出一些管理員坐在 大堂象徵式表示管理,無繳交任何公共費用。 2005年5月,法院以保全程序要求第一間公司撤 出該大廈,而第二間公司則順勢全面接管。直至 2006年5月長達1年時間,第二間公司當值管理員 及清潔工不足,曾出現1星期不清理垃圾,欠交公 共電費約180萬元,公共設施不知有無安排保養 維修,大廈內管理混亂,民怨沸騰。社會輿論及 某些政治人物則責難政府監管協調不力。2005年 12月尾,該屋邨在另一些議員的協助下再召開業 主會,成立一個新的管委會,並又委托第三間管 理公司接管屋邨。但第二間公司又不撤出,繼續 欠交電費及管理混亂。直至2006年5月,法院又 以保全程序要求第二間公司撤出,第三間公司進 場,結束長達29個月的混亂局面。但是,當初質 疑2003年11月成立的管委會合法性的案件至今 未有判決,這涉及第一間公司既已提供了服務並 繳交公共費用達17個月,能否收回管理費的權益 問題;亦涉及第二間公司是否合法接管大廈的問 題。

海濱個案,突顯了法例超前,民眾認識未達至相應程度匹配和法例超前、法律程序滯後的矛盾。立法的原意是讓小業主自主決定大廈管理事務,希望能達至維護全體業主/住戶的共同利益,確是民主法治精神體現的美好願望。然而,2003年11月召開的海濱花園業主大會是否有足夠法定人數出席、參與,其議案、議決是否符合法定的要素和整個屋邨各類小業主的共同利益,能否和如何得到法定的認可,這些不確定的因素,

埋伏下日後管理權爭拗的導火線。我們不妨假設這個業主會成立和決議事項都是合法的,但其引致的結果(大廈管理一團混亂,欠交電費而面臨割電)又是否符合全體業主/住戶的共同利益,事實已作出否定的答案。另方面,如果法院的判決早日出現,各方都依法院判決行事,則完全或部分避免了其後出現的複雜困難局面。因此,這個個案產生的過程和引致的結果都是未達到立法原意的,可說是大廈物業管理事務實施有關法例的一個失敗個案。

有法可依是法治社會的必然元素,大廈物業 管理要依法行事是無人有異議的,但如何執行、 監管行使有關法定權利的過程亦是體現法治的必 不可少重要一環。在目前,我們看不到有效的監 管機制,即使房屋局新的職能亦只是以協調及提 供技術支援為主。據社團的統計數據,澳門已有 約超過150幢大廈成立業主會,其中相當部分大廈 已被業主會更換管理公司、或由業主會自管。這 些大廈可算是表面上和諧地解決了大廈管理移交 的問題,而實質上這些業主會成立的過程、議決 是否真正符合法定程序,答案是未必。只不過是 小業主不參與或不行使權利,而原管理公司亦不 願再糾纏於大廈管理糾紛中以致欠收管理費越來 越多而無奈地撤出,這當然有損這些撤出公司的 經營權益,實有不公平之處。我們認為,法例未 完善,市民大眾的公民意識、道德水準未達至相 應程度時,現時這種拔苗助長式的、缺乏有效監 管機制的大廈業主會行事模式,未必真正能代表 全體大廈住戶的共同利益,再加上那些抱著"良



澳門物業管理需有完善的法例去規範/監管 從海濱花園個案看修改完善法例的必要性

好願望、事事關心"的社會熱心人仕"見證、監察",恐怕會制造更多的大廈管理權或管理事務糾紛,令到大廈住戶安居樂業的良好願望成為泡影。因此,如何監管及由什麼人/部門去監管(並非見證)業主會成立及行使權利的過程,是解決大廈管理糾紛的當務之急首要解決的問題,行使公權力的政府房屋局應具備這方面的職能,如再賦予仲裁的權力,則可令監管更具實效及更完善。

物業管理行業在澳門社會經濟大環境中,可 説是一個不起眼的行業, 在如今外資進入, 龍頭 產業蓬勃發展的背景下,更可說是弱勢的中小企 社群。但這個弱勢社群在社會事務中仍有其重要 性,因市民要住樓,這些樓一定需要物業管理。 而不斷湧現的管理事務、管理權糾紛,令管理公 司疲於應付業主會,欠費數額越積越大,大廈收 支完全不可平衡,再無人力資源及財政資源去投 入及提升服務質素。這樣的大廈管理現狀,怎可 以令市民安居;不能安居,樂業就失去基礎;沒 有了安居樂業,提升市民綜合生活質素的理想也 難以實現。政府、社會人仕應該保障這個行業的 公平經營環境,共同扶持這個行業,而不是經常 見到一些攪事者借行使法定的業主會權利而達到 個人目的去不斷制造矛盾、到處遊街遞信、開記 者會,令社會和諧局面蒙上陰影。

綜上所述,可見澳門物業管理市場確實存在經營環境不公平、經營權益無保障的事例,我們認為應從法例未完善上去找原因,因此亦有修改完善法例的必要性。業界寄望新的物業管理法例草案早日出台,廣泛諮詢業界及社會各界的意見,以求公平地保障各方權益。



◇ 中華民國物業管理經理人協會 秘書長: 顏世禮

台灣近二十年來,隨著經濟及社會迅速現代化的發展,新興建的大樓林立,這些大樓大多數都是以區分所有的產權型態分割擁有與使用,而且因都市化的建築朝高層、高密度開發,建築物機能的多元使用,社會大眾對生活品質的提升等因素,台灣建築物管理維護業務為因應環境需要的發展,而邁入法治管理階段,藉以有效維持建築物的正常機能運作及解決錯綜複雜的管理業務;未來物業管理融合技術及產業變革的趨勢,在台灣經濟體系將成為一項新興產業。

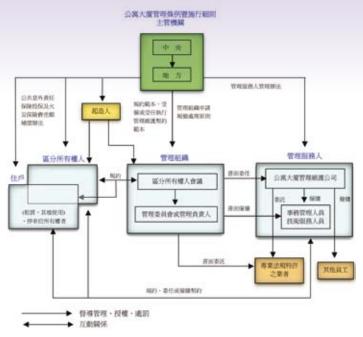
台灣物業管理的法制化

在1995年以前,台灣政府尚無訂定專法對建築物使用期間的管理作有效規範,有關建築物管理的法令分別是以治安為目的的警政、防災為目的的消防、鄰里社區為目的的民政、政府開發的國民住宅、以及營造建設為目的的建築等各單行法或相關法為依歸,復至1995年6月28日台灣政府頒佈實施「公寓大廈管理條例」,區分所有權建築物管理才正式進入法制規範的里程碑,

「公寓大廈管理條例」影響社會大眾生活習慣深

廣且遠,十多年以來在此法規導入施行期間,或 因法規制訂的不週延、疏漏、欠缺、不合理;或 因對法規的誤解、不了解、宣導不足;或因執行 時應用錯誤的程序、方法、技術等,而使法規與 實務間在執行效果上產生落差,此種現象是在任 何施行新法規制度時所正常經歷的調適過程,台 灣政府已針對此法規制度施行期間所突顯的問 題,及相關實務層面的互動關係採取因應對策, 於1999年委託中華民國物業管理經理人協會進行 是項法系的研修,並據此於2003年12月31日完成 修法程序,透過修法有效排除大部份管理執行的 阻礙,而有助於此法制的普遍落實施行。

目前台灣亦未正式將「物業管理服務業」訂 列為行業分項,而業務內容幾近與國外物業管理 行業相同的「公寓大廈管理護業」,則兼具法源 及訂列於行業分類中,已為台灣社會及市場上普 遍認同及視為物業管理產業的核心行業。台灣公 寓大廈管理制度的法系構成是以公寓大廈管理條 例暨施行細則、管理組織申請報備處理原則、管 理服務人管理辦法、公共意外責任保險投保及火



災保險費差額補償辦法、規約範本及受僱或受任 執行管理維護契約範本等法令為主體,對公寓大 廈主管機關、起造人、管理組織、管理服務人、 區分所有權人及住戶等關係人的權責訂定明確規 範,可參考圖表內所顯示法令與關係人所建構的 公寓大廈管理制度。

台灣物業管理的產業化

「物業管理產業」具有兩項與「不動產產 業」重要不同的特徵:(1)物業管理的服務對象已 由不動產擴展及不動產的使用者,由實體的不動 產擴展及非實體的經營運作。(2)物業管理的服務 目的是以不動產的經營或使用期間的需求為服務 內容。物業管理可以説是不動產產業的第三級產 業。在台灣行政院經濟建設委員會在2004年10月 核定「服務業發展綱領及行動方案」中,更進一 步將「物業管理」納入為策略性輔導的產業,將 物業管理服務業的產業定義為:「物業管理服務 業係結合科技與管理技術,考慮延長建築物生命 週期及使用者需求,對建築物與環境提供專業之 使用管理維護、生活、商業支援及資產管理等服 務之產業。」目的是要從新興產業的思維來重新 建構物業管理產業未來在台灣法律、經濟及社會 的定位。

台灣的物業管理產業現階段面臨的調 適發展,一方面為配合政府剋正積極推動的 「綠建築」、「能源管理」及「防震防災」 政策,需要透過物業管理來協助達成建築對 生態保護、節約能源、廢棄物減量、室內健 康環境等的改善;另一方面,隨著科技應用 的建築智慧化,將建築物內的各項活動或設 施設備,應用「電子控制介面」,透過「網 路通訊技術」,將活動或設備運作資料傳輸 到由「電腦科技整合」的中央監控系統,以 達到對設施設備功能的控制、監測、紀錄 類由了電腦科技整合」的中央監控系統,以 達到對設施設備功能的控制、監測、紀錄 矯正及告警等自主性作業,並經由相關資訊 的彙總分析,提供管理及決策使用的能力。 因智慧化技術的廣泛應用,導致物業管理專

業人才的職能需求產生質與量的改變。

長期以來,台灣的物業管理產業是以多元化 行業組合的經營形式存在於市場,是包含多元性 業務在內的整體性服務產業,其分項行業的整合 構成物業管理產業的整體業務功能;而物業管理 的多數分項業務均可作為獨立行業存在於市場。 也由於物業管理事務的綜合性和多元性,單一市 場運作模式很難適應其多元的特點。因而在未來 的物業管理市場中,或以經營綜合性業務為主、 或以經營專項業務為特色、或以物業管理諮詢和 規劃為主等不同主體業務的物業管理公司均會同 時存在。隨著物業管理產業的持續發展,未來也 許會有更新的物業管理行業模式應運而生;此種 動態的產業變革發展特性,在台灣的物業管理產 業將更為明顯。

任何一項社會制度,都必需因應社會持續的 變動和成長,持續檢討及修正,以求適時改善, 謀求能適合應用於地方環境背景及民情習慣,台 灣的物業管理制度也不會例外,將與時俱進。



Professionalisation of Housing Management: **Australia**

♦ Terry Burke, Professor of Housing Studies, Swinburne University of Technology, Melbourne, Australia

The scale and form of professional housing management in Australia is a reflection of the attributes of the residential housing system. Two important attributes in particular shape professional housing management in Australia. The first is that it is, and has been for over a century, a home ownership society. With around 70 per cent of housing owner-occupied for the last fifty years, the bulk of housing is self-managed and therefore does not require any substantive levels of professional management. The second feature, and one unusual by international standards, is that the rental sector (of which around 25 per cent is privately owned and almost 5 per cent publicly owned) is largely made up of detached housing, or small-scale apartments rarely more than three storeys high and containing typically four to ten separate units. Moreover, ownership of this rental stock is highly fragmented, with most investors owning only one or occasionally two properties. Multi-unit landlords are rare. Private sector high rise apartments are relatively new, with very few built before 1990. While the public sector constructed high rise apartments in the 1960s, there are only about forty such towers nationally, virtually all in New South Wales and Victoria.

The small-scale building form of the private rental sector and the fragmented landlordism, like home ownership, does not create the context for professional management in the same way as high rise developments or condominiums. Private rental properties are 'managed' but not in a particularly professional way. Their leasing out is largely handled by real estate firms who also sell property. The training requirement to be an estate agent varies from state to state (Australia has a federal system of government) but rarely exceeds six months fulltime intensive training or thirteen months part-time training, including working for a licensed agent for a year during or after such training. Most of these six month programs concentrate on the sales side of the business, and only token training is provided in residential property management. However, in very recent times more attention is being given to real estate training and some states, for example, Victoria, now require continuing professional development whereby all agents have to undertake a minimum level of training every year.

Most apartments in Australia are strata-titled, that is, in a form of legal ownership which enables a building to be subdivided into 'lots' held by a number of individual owners who as a 'body corporate' share the rights and responsibilities of the common property (for example, stairs, driveways), but with the freedom to use and dispose of their own lot as they please. Thus a block of apartments may be owned by a mix of owner-occupiers and landlords. Given the small size of most such blocks, the body corporate is managed by the owners (landlords or owner-occupiers) themselves, with one of them being the chair of the body corporate and all the others the members. Only in large multi-unit apartment blocks is the body corporate professionally managed.

Thirty to forty years on from the introduction of stratatitling legislation, problems with this ownership form and its lack of professional management are emerging. Many - perhaps most - owners will not see their occupancy of the building as a lifetime thing and will be reluctant to make, or will defer, any financial contribution other than basic maintenance for upgrading of the property, for example, replacement of roofs or plumbing. The result is that many older strata-titled buildings are in decline, with the body corporates which manage them having only limited capacity to muster the resources to upgrade them. There is now a growing push for compulsory maintenance plans for stratatitled residential buildings to address the problems of long-term maintenance and property upgrade.

The new post-1990s high rise apartments do have designated body corporate managers but whether or not they can be deemed professional is an interesting question. There is no formal training required, although they tend to draw staff from the real estate industry where there is some training, and a number of universities in Australia are beginning to offer property management programs in recognition of the need.

The social housing sector, largely made up of public housing authorities plus numerous small-scale third-sector providers, manages some

400,000 properties for low-income and complexneeds households. Historically there has been minimal professional training for this sector, but the last decade has seen a much greater interest. The Australasian Housing Institute (equivalent to the British Chartered Institute of Housing) has been established to encourage a greater professionalism and to give the sector a professional voice, and a national suite of university housing management (Graduate Certificate, Diploma and Masters) has been developed for the sector, along with a Certificate 4 course for new employees. In addition, a rigorous set of accreditation standards has been established for the third-sector or community providers, including staffing and practice skills.

Overall one can conclude that residential property management in Australia has not reached high professional standards. Probably the most professional sector is social housing, but this amounts to less than 5 per cent of the stock. The growth of large high rise apartment blocks of the sort that dominate Hong Kong and other Chinese cities has yet to spawn a professional management although sector, emergent problems consumer complaints would suggest that greater professionalisation of management through more professional development programs and more rigorous accreditation processes is just around the corner.



業主大會的武器

◇ 鍾沛林律師行 高級合伙人鍾沛林律師J.P.

最近被某一屋苑業主問到當業主對大廈法 團的管理委員會(以下簡稱"管委會")有不滿 時,是否可以更換管委會或當中某些委員?其實 法例是賦予了業主這個權力的。以下本人希望和 大家研究這問題。

根據【建築物管理條例】(第344章)(以 下簡稱"該條例") 附表3第1(2)段, "在不少於 5%的業主要求下,管理委員會主席須在收到要求 後14天內,就業主所指明的事宜召開法團的業主 大會。"而根據該條例第14(2)條, "法團可在會 議上藉決議撤換管委會的任何委員。"另外,根 據該條例第30條,業主以上述附表3第1(2)段召開 的法團會議,可委任一名管理人,然後議決解散 管委會。

若把上述的條款綜合起來,就可知道法例是 給予業主要求管委會主席召開法團業主大會的權 力,而在業主大會的會議上,業主可以藉決議撤 換管委會的委員。

其實該條例第31條亦指出,業主可以向土地 審裁處申請,由土地審裁處解散管委會,並委任 一名管理人或撤换管理人。不過在這裡我們先討 論以"不少於5%的業主要求"這方式去撤換管委 會或個別委員。

雖然看上去很簡單,但很多時業主提出的 要求都被駁回,而很多相關的案例亦指出很多業 主的要求都因為一些技術性問題而不被法庭所接 納,最終涉案的法團是不用召開業主大會的。這 証明了當中有很多技術性問題大家必須留意, 例如法例的要求是"不少於5%的業主",何謂 5%的業主呢?是擁有業權份數5%的業主?或是 整棟大廈(或屋苑)業主總數的5%?夫妻二人共 擁有一個單位的話,算是一個或是兩個業主呢? 又例如,法例要求管委會主席須在收到要求後 14天內召開大會,何謂"收到要求後"?若主席 出外旅游的話,何時才算是收到要求呢?

(1) 何謂"不少於5%的業主"?

有些業主可能以為,5%的業主很自然是講及擁有整棟大廈或屋苑5%業權份數的業主。但其實該條例附表3第9(a)段已清楚説明,某個百分率的業主須解釋為提述業主總人數的該百分率,而無須理會他們在建築物的總分割份數中的擁有權的百分率;而並非解釋為總共擁有該百分率的份數的業主。據此,5%的業主應解釋為大廈總業主人數的5%。例如某大廈擁有一百二十名業主,那麼5%的業主便是六名業主。即在不少於六名業主的要求下,該大廈管委會主席便須按該六名業主所要求的事宜召開法團的業主大會。

(2) 夫妻二人共同擁有一個單位時,是否計算為 兩個業主?

表面看來夫妻二人應計算為兩名業主。但根 據土地審裁處的案例: U Wai Investment Company Limited and Another訴Au Kok Tai and Others (LDBM80/1997) ("該案例"),當中法庭指 出其實該條例第2條已提供了答案。第2條對"業 主"的釋義為"當其時擁有一幅上有建築物土 地的一份不可分割份數的人"。大家須留意的 是"一份"這字眼。該條例的意思是必須是起碼 擁有完整的一份不可分割份數的人,才算得上是 業主。假設有夫妻二人共同擁有一個單位,而該 單位擁有該大廈的一份不可分割份數。由於丈夫 或妻子都沒有單獨擁有完整的一份份數(不論他 們是以聯權共有人〔Joint Tenants〕或分權共有人 〔Tenants in Commons〕方式持有該單位), 所以只有在他們二人聯合在一起時,才是擁有 該單位完整的那一份份數。因此夫妻二人亦只計 算為一個業主。而該案例中法庭指出了在共同 擁有一份不可分割份數時,所有擁有人會共同地 (collectively)計算為一個業主。

據此,不管某個單位有多少個擁有人,在計 算業主人數時,他們都會計算為一個業主。而即 使夫妻二人擁有多於一份的份數(如該單位擁有 十份份數),該夫妻二人亦只計算為一個業主。

(3) 5%召開業主大會的要求必須是針對管委會主 席而提出

很多時候,大家會認為把召開大會的要求交給業主立案法團、其中一位委員、管業公司或管理處便可以。但其實這樣做均會導致該要求無效。根據該條例附表3第1(2)段,"在不少於5%的業主要求下,管委會**主席**須在收到要求後14天內,就業主所指明的事宜召開法團的業主大會"。留意"**主席**"兩個字,該條例是規定必須在管委會的**主席**收到要求後才須召開大會。亦即是説,若把要求交給任何其他人士,均會令該要求無效。

在一宗土地審裁處案件亦有提出此點 (LDBM153/2005)。在該案中,申請人曾兩次 提交開會的要求,第一次只是把開會的要求給予 管委會,而不是主席;而第二次的要求雖然寫上 給予主席,但實際上只是給予管業處,並沒有交 到**主席**手上。而最終法庭裁定,該主席即使沒有 按要求開會,亦沒有違反該條例。

所以,大家必須留意,5%業主的要求是必須要交給管委會的主席,而且須要確保主席確切收到有關的要求,否則管委會的主席即使不召開會議,亦不一定是有違反該條例。

然而,何謂"把要求交到主席手上"亦可能 出現爭議。例如,由主席授權管業公司代表去收 取要求是否可行呢?又管理處職員自行承諾會轉 交主席又是否可行?在這些問題上目前沒有案例 去解答,故須要視乎個別具體情況而定。

(4) 誰有責任核實業主的簽署?

很多法團或管業公司或許曾經收到一些5%業主聯合簽名要求召開大會,然而發現在這些簽名當中有部份不知是否真正是業主,有部份則不知道是否真正業主親自簽署,也有些只是在白紙上簽署,然後連同其他簽名及一封信函一併遞交給管委會主席。主席在接到這樣的要求時不免感到為難,一方面根據該條例附表1第1(2)條,主席在收到要求後便須在14天內就業主所指明的事宜召開大會,但對部份簽名有懷疑時,特別是當簽署的業主數目只是剛剛超過5%業主時,即有可能真正要求召開大會的業主根本不夠5%時,是否仍然要去召開大會呢?主席在這情況下應如何處理?

根據土地審裁處一宗案例("周百盛" 訴"富多來新邨第一期業主立案法團", LDBM250/2000),要求召開大會的申請人需 要證明簽名的業主是具有業主的身份。而即使簽 名表上在業主簽名處之上印有"業主簽署"的字 句,並不能證明簽名的人是具有業主的身份。法 庭亦指出,申請召開的人只要到土地註冊處就簽 名的業主作出查核,並從土地註冊處取得有關的 紀錄,便可證明該些人士是否具有業主的身份。 若未有這樣做的話,並不算是提出了符合附表1第 1(2)條有關5%業主的數目的証據。因此,業主 身份的證明是應由申請人去證明的。 從另一角度看,土地審裁處另一案件指出,除非主席能夠提出證明沒有5%的業主作出要求,否則在表面上有不少於5%的業主要求召開時,便須在14天內安排召開大會("胡桂容及另一人"訴"黃漢明",LDBM323/2002)。而法庭在往後的案例中亦有再確認此點(FUNG YUET HING 訴THE INCORPORATED OWNERS OF HING WONG MANSION & OTHERS, LDBM367/2004)。在該案中法庭進一步指出,主席不能單依靠簽名有可疑來作為藉口不去開會。

然而,主席該如何去核實簽名呢?在另一案中法庭指出主席有理由在有懷疑時去開展核實簽名,但該法庭並無説出如何去核實,只指出一切視乎情況而定("梁淑兒"訴"鄭沛濂",LDBM268/2003)。

所以,業主在提出要求時,要注意其有證明業主身份的責任,否則要求是不能成立的。而主席亦要留意在存疑時,可以去核實並提出沒有5%的業主要求的證明,否則法庭是會命令召開大會。但由於每個個案情況有所不同,建議還是聽取專業人士的意見,才作最後決定。

其實5%業主要求於大會議決的議程並不限於撤換管理委員會成員,而可包括其他法團事務。根據經驗所得,5%業主要求開大會的條款有頗多值得商榷的地方,例如提出的議案如被通過,會是不合法的,那未管委會主席可否拒絕召開大會?又5%的業主要求,在大會被否決,可否再重覆提出同一議程?我將會再探討。

Letter to the Government

CHARTERED INSTITUTE OF HOUSING ASIAN PACIFIC BRANCH

英國特許房屋經理學會亞太分會

遠訳地址: 各港港庁港寮道25號 海水 (A) 日 Postal Address: Room 1858, Harbour Centre, No. 25 Hasbour Rond, W な 話 (Tel): (852) 2358 8880 博耳 (Fax): (852) 2356 7332 Internet Website: www.cih.org.hk



Our ref: RY/CIH/2006-0002/bk

10 March 2006

Mrs Angelina Cheung, JP Assistant Director Home Affairs Department 21st Floor, China Overseas Building 139 Hennessy Road, Wan Chai Hong Kong

Dear Angelin,

Bills Committee on the Building Management (Amendment) Bill 2005

In response to your paper dated 17 February regarding the unfair practices of prohibiting communications among owners by the incumbent management committee or management company, our Institute has discussed this issue and our views are concluded as below.

- 1. There is Code of Professional Conduct of our Institute setting out the standards of personal and professional conduct required and includes a number of rules that give our members clear guidance on how to conduct themselves. Sections 2.1 and 2.4 of the Code which relate to avoidance of unfair practice are extracted below for your easy reference.
 - Members must perform their duties diligently, conscientiously, without favour and with regard to the interests of their employers, professional colleagues, their customers and business associates.
 - Members must seek to eliminate discrimination and promote quality of opportunity for all. They must not discriminate against any individual or group on the grounds of race, ethic origin, nationality, religion, cultural background, sex, domestic circumstances, disability, illness, age or sexual orientation.

.... / pg 2

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- pg 2 -

- 2. To prohibit owners' committee or management committee from imposing restrictions to other candidates, we would suggest statutory enforcement rather than a code of practice. Provisions to avoid unfair practice may be added in the Tenth Schedule of the BMO, Hearing and Determination of Specified Proceedings by Tribunal. It would allow other candidates to refer the case to Lands Tribunal for a djudication when the management committee imposes unfair restrictions on various means of communication.
- 3. On the other hand, Home Affairs Department and relevant professional bodies should jointly promote the good practices of conducting property management activities to owners committees to educate them the importance of a fair election.

Please feel free to contact Mr Wesley Sze, Chairman of our Professional Practice Committee at 2850-0936 if you wish to discuss the matter further.

Yours sincerely,

Ricky Yuen

Chairman

Chartered Institute of Housing Asian Pacific Branch



Letter to the Government

CHARTERED INSTITUTE OF HOUSING ASIAN PACIFIC BRANCH 英國特許房屋經理學會亞太分會



Our ref: RY/CIH/2006-0003/bk

13 March 2006

Housing, Planning and Lands Bureau 9/F, Murray Building, Hong Kong

Attention: Ms Olivia Nip, Assistant Secretary, (UR)4)

Dear Miss Nip

Consultation on Mandatory Building Inspection Scheme (MBIS)

The Government was facing strong opposition in the political arena and from the public when the notion of MBIS was first revealed five years ago. Hong Kong citizens were then quite ignorant of the tremendous social and economic costs that unsafe buildings could cause to the society. The Albert House Incident and the continuous falling of aluminium windows in recent years have awaken public attention to the pressing need for restoring safety to our built environment.

The Chartered Institute of Housing Asian Pacific Branch is supportive of the framework as proposed in the MBIS and wish to express our observations and opinions as below:

1. Formation of Owners Incorporations

One of the root causes of dilapidated buildings is the absence of owners corporations to spearhead the proper management and maintenance of buildings. Concurrent with the implementation of MBIS, Government should mobilize more resources to help owners to form corporations to manage their buildings. You are probably aware that the Hong Kong Housing Society has been successful in helping building owners to form corporations through her network of Property Management Advisory Centres in Hong Kong.

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2. Administration of Building Safety Loan Schemes

There are at present three loan schemes administered separately by the Buildings Department, Urban Renewal Authority and Hong Kong Housing Society. It is desirable to combine the schemes by pooling the resources, standardize the eligibility criteria and application procedures and unify the message to the public to achieve synergy effect. Government should entrust the work to a housing related NGO to assume the role of a central loan administrator.

3. Objective of MBIS

We are of the view that the objective of MBIS should include both "Safety and Health" as equally important to the well-being of our citizens particularly in the aftermath of SARS and the prevalence of Avian Influenza.

4. Target Buildings

We concur with the proposal to start with buildings over 30 years old and consider it appropriate to prioritize the inspection to those buildings to which the Buildings Department have served repair orders to be followed by those severely dilapidated ones. Progressively, the Scheme could be cascaded down to buildings over 20 years old. But we are concerned that the Scheme should be confined to buildings over 3 storeys high because lower buildings without proper maintenance and repair pose no less hazards to their occupants than tall

5. Inspection Items

Building health and safety is a total product, therefore we consider it necessary for the MBIS to include inspection to fresh and flushing water systems, fire safety installations and electrical installations as a comprehensive and integrated "body check" to buildings. To this end, the MBIS would need to take into consideration current statutory requirements on inspection of all relevant building services to avoid duplication.

6. Authorized Inspectors

Under the MBIS, the inspections are to be carried out by APs or RSEs who are statutory authorized professionals specified in the Building Ordinance (BO).

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造鉄 たな: 多記簿 (F 飛神 M 2 3 観 美術中 〜 1808 業 Postal Address: Room 1808, Harbour Centre, No. 25 Harbour Read, Wanchal, Hong Kong. 電影 (Tell): (852) 2358 8880 「第7 (Fax): (852) 2358 7332 Internet Website: www.cih.org.hk



The scoring system adopted by the VBCS for assessing the maintenance conditions of the buildings is by personnel not specified in the BO but the scores will result in exemption of a statutory requirement. We are concerned if there will be liability implications to the assessor of the VBCS when safety issue arises. For the two schemes to be complementary to one another, the standards of inspection as well as qualifications of the assessors must be compatible, if not entirely the same.

7. Inspection of Windows

We are supportive of periodic inspection of windows instead of a one-off exercise. In view of the volume of inspections, Government might not have the resources to effectively enforce the legislation. It is desirable to entrust the job to licensed persons or minor works contractors to carry out the inspection on a 3-year cycle. Government should set up safety standards for windows and establish licensing requirements for qualified window inspectors. The Construction Industry Training Authority (CITA) should organized courses to train window inspectors in order to meet with the implementation of this legislation. On the other hand, government should educate owners of private buildings to carry out regular maintenance, inspection and repair to the windows to alleviate the problem.

8. Voluntary Buildings Classification Scheme (VBCS)

We appreciate the fundamental principles of the VBCS in encouraging the good management and maintenance of buildings. However, it is imperative that VBCS be interfacing and running parallel with MBIS on a complementary basis. It is also considered appropriate to launch the VBCS in advance to set the scene for the subsequent smooth implementation of MBIS by promoting the building care culture in Hong Kong. To make VBCS a success, Government may provide incentives to owners by reducing the rates payable and encourage insurance companies and banks to lower the insurance and lending rate to buildings receiving high ratings in the Scheme.

9. Finance for Building Maintenance

To tackle the deep-rooted problem of building neglect in Hong Kong and in line with the introduction of MBIS, Government should consider mandatory measure for building owners to set aside a building maintenance sinking fund if such is

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not a lready provided for in their building management budget. done by way of taxation in the form of increased rates.

10. Licensing of Property Management Companies and Managers

Modern building management and maintenance is not an amateurish pursuit that requires s ophisticated technical and managerial expertise. We firmly advocate Government to monitor the quality and standard of practice of property management companies and practitioners through a licensing system. In the long run, the success of MBIS and hence, the quality and sustainability of our built environment relies heavily on a regulatory system for our property management industry.

11. Mandatory Management of Problematic Buildings

We have reservation over the mandatory formation of owners corporations in view of the ownership structure of old buildings, absentee landlords, financial and age profile of owners. Given these constraints, Government may introduce flexibility into the Building Management Ordinance (Cap344) to allow building repairs and maintenance works to be carried out upon consent of over 70% of the owners if there is no owners corporation for the building. Mandatory management of problematic buildings by Government appointed agencies might be a solution to the problem but there must be a mechanism to ensure adequate recovery of expenses by the management agencies to make the scheme afinancially attractive one.

We hope that our views will be useful for you to formulate future policy for building management and maintenance. We look forward to having the opportunity to discuss the possible contribution that the Institute could offer to make the MBIS and VBCS successful.

Yours sincerely,

Ricky Yuen

Chartered Institute of Housing Asian Pacific Branch

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Letter to the Government

CHARTERED INSTITUTE OF HOUSING ASIAN PACIFIC BRANCH

英國特許房屋經理學會亞太分會

護駅地址:香港電好港連選25號海港中へ1808業 Postal Address Room 1808, Harbour Centre, No. 25 Harbour Road, W 電数 (Tei): (852) 2356 8880 第 東 (Fax): (852) 2356 7332 Internet Website: www.cih.org.hk



23 May 2006

Director of Home Affairs Home Affairs Department Division IV 21st Floor, China Overseas Building 139 Hennessy Road Wan Chai Hong Kong

Attn : Mrs Angelina Cheung, JP

Dear Angelina,

The Borrowing Power of Owners' Corporations in Building Management (Amendment) Bill 2005

Thank you for your letter dated 24 April 2006 consulting the opinions The Chartered Institute of Housing Asian Pacific Branch (The Institute) on the above subject. I am pleased to express our views as below:

The Institute is in principle supportive of the proposed amendment in facilitating the process of rehabilitating dilapidated buildings, maintaining public safety, and reducing social costs as a result of the rapid decay of our built environment. We consider the proposed loan arrangement a prudent mechanism with good intention to mitigate the problem. Owners' corporations will be encouraged to carry out repairs to their buildings in order to comply with statutory orders. In aged buildings where missing owners are common, this could be one of the solutions to finance contribution to common repairs.

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- 2.1 It is anticipated that disputes will arise in determining the cost allocation on repair items which are not directly related to the statutory order There is little restriction on OCs borrowing loan to repair items which are not for safety or public hygiene.
- 2.2 The proposed amendment does not address the problem of owners who deliberately refuse to pay the loan, the appeal mechanism will enable them to delay the whole process for a long time. Furthermore, the defaulting owner may appeal to the Court of Appeal on the ground that the decision errs on a point of law within 21 days from the date of decision by the Lands Tribunal.
- 2.3 There are many buildings with no OCs and they comprise the bulk of problematic buildings in Hong Kong. In case of missing owner, the loan will be outstanding forever.
- 2.4 We are not certain that the proposal will be acceptable under the Common Law that someone may raise a loan on behalf of a third party, or it is an intrusion to the human rights of individual owners.

- 3.1 To mitigate the risk of abuse by OCs, it is suggested to introduce a mechanism whereby an OC is required to collect at least 80% of owners' contribution for the repair costs (the proposed % is in line with the proposed Land Resumption Ordinance currently under public consultation) before it can apply for the loan.
- 3.2 The Institute also suggests to levy interest on the outstanding loan to deter abuse. The loan is to cover fees for registration of legal charge.
- 3.3 The proposal of registering a charge against the property of the defaulting owner, though helps to facilitate the collection of fund for repairing buildings under statutory orders, is a rather passive penalty. We wonder if Government would consider the requirement for the tenant of the subject property, if any, to pay the rent directly to Government until such time the outstanding contribution is fully settled.

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英國特許房屋經理學會亞太分會

追紧此处;香港齊仔港旁道25號海港中~1808案 Potal Address Room 1808, Harbour Centre, No. 25 Harbour Road, Wi 要新(Tell: [622] 2358 8890 專業(Fax): (852) 2356 7332 Internet Website: www.cih.org.hk



3.4 To ensure the smooth application of the loan and the proper conduct of the repair project which is partly government financed, it is recommended that OCs should engage a Registered Professional Housing Manager or an Authorized Person to oversee the entire process. The OCs would also find it beneficial to be assisted by an experienced professional to climinate unnecessary disputes among owners which are quite common in building repair works.

In conclusion, the Institute considers the proposed amendments a feasible solution to deal with the loan arrangement which strikes a fair balance between the pressing need to facilitate OCs to borrow for the required repairs and to mitigate

Should you need further clarification on the above, or wish to discuss the matter further, please feel free to contact Mr. Wesley Sze, Chairman of our Professional Practice Committee at 28500936.

Yours sincerely,

Ricky Yuen

Chartered Institute of Housing Asian Pacific Branch

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香港房地產專業服務聯盟春節酒會

2006年1月17日

香港灣仔港灣道一號香港會議展覽中心



Mr. Ricky YUEN, Chairman expressing well wishes for the New Year 阮偉基主席致新春賀辭

參觀機電工程處總部大樓

2006年2月25日



Presentation of souvenir by two Institutes 兩會代表致送紀念品



第七屆香港房地產服務及城市建設博覽 • 重慶

2006年3月7日至8日

主辦單位:香港貿易發展局

重慶市南岸區江南大道2號重慶國際會議展覽中心1樓C館



Branch's representative was invited to attend the Opening Ceremony

本會代表應邀出席博覽會開 墓典禮

啟德論壇(二)「共建維港委員會」



2006年3月18日及25日 共建維港委員會邀請本會出 席2006年3月25日於北角渣 華道333號公務員培訓處舉 辦之啟德論壇(二)。論壇除 了分享公眾意見之外,並邀 請有關部門及顧問代表出席 論壇,回應公眾諮詢及討論 擬定發展計劃的概念。

Second Kai Tak Forum in progress 啟德論壇(二)進行中

台灣訪問交流團

2006年4月16日至19日 英國特許房屋經理學會亞太分會 台北及台中



Presentation of Souvenir to Chairman of Taiwan Building Managers Association, Mr. WANG Hua Chen 致送紀念品予台灣物業管理 經理人協會王化榛理事長

Group photo with representatives of Tai Chung Property Managers Association 與台中市物業管理經理人 協會代表合照





澳門物業管理業商會代表香港訪問團

2006年5月23日至24日

澳門物業管理業商會代表團在本年五月二十三日及二十四日到香港作交流訪問,為使訪問團能夠接觸香港物業管理行業中的不同範疇,我們特意為二十六人的訪問團安排了不同類型的參觀項目。

國際金融中心二期是優越商業建築並享譽國際;訪問團除了讚嘆於它巍峨高聳的外觀,更為管理公司所提供多元化及照顧周全的服務而留下深刻印象。訪問團再到灣仔香港會議展覽中心,參觀了這所國際知名特別為各類型展覽或會議而設的大型場地。

行程還包括了港島東的南灣半島,是私人住宅發展項目,和九龍灣德福花園商場,好讓訪問團對 私人發展商所管理的物業項目有一定的認識。

此外到香港房屋委員會展覽中心的參觀則是在緊促的行程中最有效率的安排,訪問團可以透過多元化的展示在短短一小時內認識到香港公共房屋在過去半世紀的發展史。

訪問團在二十四日晚上離港前特別宴請本會委員以答謝本會兩日的招待。是晚本會主席連同十多位委員出席答謝宴,共度賓主同歡的好時光。



Presentation of Souvenir by Macau Property Management Business Association 澳門物業管理商會致送紀念品予本會

職安推廣日

2006年5月20日

在五月二十日下午,本會應香港房屋協會之邀請,參與該協會在駿發花園舉辦之『職安推廣日』, 以提高物業管理從業員,對職業安全之認知及宣傳職業安全之重要。『推廣日』由香港房屋協會執 行總幹事王麗珍女士,香港房屋協會物業管理總經理阮偉基先生,及職安局總幹事鄧華勝先生主持 揭幕儀式。隨後,大會安排多項文娛及競技比賽,予物業管理從業員參加,藉此宣傳職業安全之重 要。本會亦在會場內設立了一個遊戲攤位,供各與會人士及市民玩耍,反應非常熱烈。是次活動舉 辦得非常成功,約有逾千名的物業管理從業員及市民參加。



Group photo of HKHS's representatives with guests 香港房屋協會代表與嘉賓 合照



Our booth to promote occupational health and safety

本會設置攤位推廣職安健 意識



新辦事處開幕典禮

2006年7月10日



Pig-cutting moment 吉時到,切燒豬



Chairman wishes all the best in the New Joint Office 主席致辭,祝願各人工作順利



Staff of New Joint Office 職員合照

零零六國際房屋會議 當代房屋管理 - 創新境界

為慶祝英國特許房屋經理學會亞太分會成立四十週年,學會將於本年十一月,舉辦一個國際房屋會議。 是次會議提供一個極佳的平台,讓世界各地的物業管理專家及從業員交流經驗及最新房管資訊。講者包 括來自澳州、中國、台灣、香港、澳門、韓國及南非的物業管理專家。歡迎所有專業房屋經理,物業管 理從業員、工程師、學者、研究員、政府官員、非政府機構代表、承辦商及希望認識物業管理的人士參 加。

主禮嘉賓

民政事務局局長何志平醫生, JP

會議詳情

日期	二零零六年十一月廿四日(星期五)			
時間	上午九至下午五時			
地點	香港九龍尖沙咀彌敦道五十號金域假日酒店地庫三層麗晶殿			
主題	「當代房屋管理 一 創新境界」			
主要對象	房屋管理業內專業人士			
語言	英語、廣東話及普通話			
報名費	港幣300元正 (包括場刊、午餐及茶點) 學生特惠港幣50元正 (半天)			
截止報名日期	二零零六年十月三十一日(星期二)			
查詢	英國特許房屋經理學會亞太分會 行政主任 鄧小姐			
聯絡電話	(852) 2356 8680			

贊助機構: 香港房屋協會

International Housing Conference 2006 "Contemporary Housing Management — Beyond the Boundaries"

To celebrate its 40th Anniversary, the Chartered Institute of Housing Asian Pacific Branch is going to host an International Housing Conference in Hong Kong in November 2006. The conference provides an excellent platform for housing practitioners and academics in exchanging and updating their knowledge in Contemporary Housing Management.

The conference will include speakers from Australia, China, Hong Kong, Korea, Macau, South Africa and Taiwan. Housing professionals, engineers, academics, researchers, government officials, administrators, non-government organizations, service providers and those who are a general interest in housing management career are welcome to attend.

Officiating Guest

Dr Patrick C. P. Ho, JP, Secretary for Home Affairs

Conference Details

Conference Delans							
Date	24 November 2006 (Friday)						
Time	9:00am - 5:00pm						
Venue	Crystal Ballroom, Basement 3, Holiday Inn Golden Mile Hong Kong, 50 Nathan Road, Tsim Sha Tsui, Kowloon, Hong Kong						
Theme	"Contemporary Housing Management – Beyond the Boundaries"						
Target Audience	Housing Management related professionals						
Language Media	English, Cantonese and Putonghua						
Registration Fee	HK\$300 (Including Conference kit, lunch and refreshments) Special rate for students HK\$50						
Registration Deadline	31 October 2006 (Tuesday)						
Enquiry	Chartered Institute of Housing Asian Pacific Branch Administrative Officer, Ms Carey Tang						
Contact Tel	(852) 2356 8680						

Sponsor: Hong Kong Housing Society

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請將表格填妥後,連同回條及劃線支票(抬頭請以"英國特許房屋經理學會亞太分會"開立)寄回本會香港灣仔港灣道6-8號瑞安中心2709-11室予本會收。



英國特許房屋經理學會於二〇〇六年六月二 十至二十三日,在英國Harrogate市,舉辦了一個 為期四天之週年會議及展覧會。該會議及展覧會 乃英國房屋管理及相關行業一年一度的盛事。整 個活動吸引了超過六千名來自英國及世界各地的 代表和三百八十個參展商參加。今年主題為『建 設社區』。

本會委派了三名代表,連同九名來自香港房 屋經理學會及香港房屋署之同業,前赴英國參與 是次會議。經過一連串緊密的會議及活動,包括 參加英國總會的週年大會、專題講座、聚餐、及 參觀等,本會代表與英國及世界各地的專家和代 表,建立了緊密的聯系。會議期間,本會代表亦 參加了一個房屋考察交流團,到Leeds市參觀當地 的房屋管理及重建計劃,從而了解英國當地的房 屋發展。

總結此行,本會代表獲益良多。透過是次活 動,各代表知悉及接觸到最新的建築材料、資訊 科技、財務融資、以至一站式的房屋管理運作等 知識。再者,本會亦與不同國家的專家及代表, 建立了緊密的聯系和加强相互的溝通,此行可謂 收獲豐富。



- Reported by Mr Wong Ying-kit, Romulus

The Annual Conference and Exhibition of the Chartered Institute of Housing was held from the 20th to 23rd of June 2006 at Harrogate of the United Kingdom. The 4 days conference and exhibition are one of the leading Housing events in UK. It attracted more than 6,000 delegates and 380 exhibitors to participate and attend. This year, the theme of the conference is "Building Communities – Making the Case for Housing"

Three members of the Executive Committee of CIHAPB and nine delegates from HKIH and HKHA have attended the conference at Harrogate. By attending various activities of the conference including the Annual General Meeting of CIH, seminars, dinners and visit, members of CIHAPB established a close connection with various professionals and delegates in UK and overseas. Furthermore, delegates have also attended a study tour to Leeds to study the recent housing development of Yorkshire Housing Group.

All of the delegates concluded the trip to Harrogate as a fruitful experience where they could get in touch with housing experts abroad and establish a close link with them. Furthermore, they could get in touch with the latest housing innovations including building materials, IT and software support, finance and one-stop shop housing solution.

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Chartered Institute of Housing Asian Pacific Branch 英國特許房屋經理學會亞太分會

Units 2709-11, Shui On Centre, Nos 6-8 Harbour Road Wanchai, Hong Kong

香港灣仔港灣道6-8號瑞安中心2709-11室

電話: (852) 2356 8680 Tel 傳真: (852) 2356 7332 Fax Website 網址: www.cih.org.hk Email 電郵: apb@cih.org.hk