

A Helping Hand for Hong Kong's Old Private Buildings

Hong Kong is a small place in terms of area but a large city in terms of population. While modern skyscrapers continue to reshape the famous skyline of the central business district, what happens in the backstreets of other districts is a totally different story.

Today, I would like to share with you the problems that have arisen in these backstreet buildings, and how the Hong Kong Housing Society, a non-government organization, is giving a helping hand to their owners.

But first let me give you an overview of the private buildings in Hong Kong.

According to the statistics provided by the Home Affairs Department in September 2005, there are a total of nearly 39,000 private buildings in Hong Kong, but more than half of them – about 22,000 – are over 15 years old. Among these, over 10,000 – or over a quarter – are over 30 years old. These buildings are mostly under strata title, which means that in one building, the number of owners can be from a few to a few hundred depending on the number of flats in the building.

As buildings get old, they get sick easily. And when they do, it is the responsibility of the Owners Corporations to make remedies. But the problem is – a lot of these old buildings do not have Owners Corporations. So when these buildings run into trouble, their owners run into trouble too.

The Albert House (添喜大廈) Nightmare

The case of Albert House is a typical example of the nightmare that building owners can have when their building gets sick.

Albert House is a building in Chengtu Road, Aberdeen. Built in 1973, it comprises 92 residential flats and 10 commercial units. One day in 1994, an illegally-constructed fish tank which was erected on a canopy of an upper

floor restaurant collapsed while it was in the process of being demolished. One passer-by was killed and 13 others injured. In 1998, the Court issued an order for compensation to the victims which amounted to HK\$33 million. When further court proceedings to hear petition from various parties went on, the restaurant operator (the owner of the fish tank), the construction company which was carrying out the demolition when the accident happened, and even the property management company either terminated business or went bankrupt.

Then the liability fell wholly on the 130 owners who were jointly and severally liable under the Deed of Mutual Covenant (DMC). To pay their share of the liability, each owner had to pay his share of around \$200,000. It then turned out that of the 130 owners, about 100 had difficulties in repaying their civil liabilities. Most of them lacked immediate cash while some being elderly people to whom the Albert House flat was their only asset.

In late 2004, upon the request of Home Affairs Bureau, the Executive Committee of the Housing Society agreed on an exceptional basis to provide the small owners with a loan scheme to help them get through their difficult times. In April 2005, 82 owners who applied for the interest-free loan from the Housing Society were granted the \$200,000 they needed. For a few elderly owners, special consideration was even given for them to repay their loan only when they sell their property in future.

In this case, it is important to note that apart from settlement of the claims by the owners, it is essential that the Owners Corporations and management companies carry out sustained building management and eliminate unauthorised structures. Unfortunately, there is currently no legislation on the monitoring of management companies, nor is it mandatory to appoint a professional housing manager who can properly advise the owners.

In view of this long-standing problem, and prompted by the SARS outbreak in 2003 that engendered the concern of building maintenance in Hong Kong, the Housing Society decided to lend a helping hand to the private building owners.

In February 2005, the Housing Society launched the Building Management and Maintenance Scheme (BMMS), committing a fund of \$3 billion from our own reserve to help private property owners properly maintain and manage their properties. Through the provision of technical assistance,

incentives and subsidies, private building owners are encouraged to firstly form Owners' Corporations if they had not yet done so, and then carry out repairs to their buildings. Over the past 18 months or so, we have assisted over 1,400 buildings in one way or another.

Difficulties in forming Owners Corporations

As most of you are aware, management of buildings is a complex job. And management of old buildings is even a greater challenge. For buildings completed in the recent 10-15 years or in large housing estates developed by big property developers who employ professional property managers, problems are relatively minor. Due to various reasons, historical or political, we see many problems facing old property owners who have a mind to improve the conditions of their living environment.

Today, I would like to walk you through four cases that illustrate the difficulties encountered in forming Owners Corporations. We all understand that the existence of Owners Corporations does not necessarily mean that building has good property management. However, without this legal entity to represent all the small owners, to carry out repairs and maintenance to the whole building will become almost an impossible task. These 4 cases are in Mong Kok, Tai Kok Tsui, To Kwa Wan, and Shau Kei Wan respectively, representing a rather wide geographical spread.

(A) Cheung Fat Hing Wang Mansion (長發興旺大廈) – Mong Kok

Cheung Fat Hing Wang Mansion in Cheung Wang Road, Mong Kok, is the collective name for the three residential buildings of Cheung Fat, Cheung Hing and Cheung Wang, plus one shopping arcade. Built in 1971, it comprises 644 residential units and 20 shops. There are 4 Mutual Aid Committees, all formed over 10 years ago. The buildings are managed by the Mutual Aid Committees except one tower which employed a management company about two years ago.

The problems with Cheung Fat Hing Wang Mansion were many. First, the majority of the flats were occupied by tenants rather than the owners themselves. Second, most of the Mutual Aid Committee members were elderly people who were reluctant to form an Owners Corporation. Third, the various Mutual Aid Committees had different management accounts,

different standards and different levels of financial reserve. Strange as it may seem, it was in reality quite difficult to obtain consent from even as little as 5% of the owners to convene a meeting for the 644 owners if they do not have support from an experienced management company. The four buildings were targeted under the Buildings Department's Co-ordinated Maintenance of Buildings Scheme, but it was never clear who should coordinate the repair works.

As a result of inadequate maintenance, disaster struck in the morning of 22 June 2005, when an aluminum framed window fell down from the corridor of the 12/F of Cheung Wang Mansion, and seriously injured an Indonesian maid who happened to pass by.

We believed this was only the tip of the iceberg and did not wait to offer instant assistance. Our colleagues met with the Mutual Aid Committees, and decided to offer free window inspection to the whole development including every household, and gave technical advice on carrying out comprehensive repairs.

In the meantime, we worked hand in hand with the Home Affairs Department and successfully helped the owners to form an Owners Corporation.

We should note from this example that very often, statutory repair orders tend to trigger off the owners' desire for better building maintenance and management. Meanwhile, our BMMS which provides building owners with financial incentives and comprehensive guidance, is essential in facilitating the formation of Owners Corporations as the first basic step to later expedite building repair works. In addition, experienced professional housing managers are critically important in lining up the owners to form an Owners Corporation.

(B) 6-8 Lime Street (菩提街) and 56-62 Larch Street (洋松街), Tai Kok Tsui

The second case involves a group of buildings in Lime Street and Larch Street, in Tai Kok Tsui, which were built in 1964. There were a total of 48 units and 6 shops. There was a Mutual Aid Committee but unfortunately it

was inactive. The buildings were seriously dilapidated – almost all the units on the top floor were left vacant because of the problem of water seepage.

The problems with the buildings there were similar to the case of Cheung Fat Hing Wang Mansion. The majority of the residents were tenants rather than owners, and the small number of resident owners were mostly aged while others were missing. Tenants who had newly moved in were not cooperative and as a rule, they had very little sense of belonging to the area. The elderly owners were either reluctant in, or incapable of, forming any Owners Corporation. Finally, due to the lack of management a lot of unauthorised building structures were erected on the roof top, obstructing repair works on the water-proofing of the roof. As a result, the leakage problem on the ceiling had been there for a number of years, causing the flats on the top floor to suffer and a number of them had to be left vacant.

It was in the morning of 16 April 2006 when a window fell from the second floor of one of the flats in Lime Street, injuring an elderly man who happened to be cycling past, that drew the attention of our colleagues.

Following the incident, the Housing Society initiated and coordinated meetings with the Mutual Aid Committees, Home Affairs Department and the Buildings Department.

In helping the owners to form an Owners Corporation, we started to conduct home visits to encourage owners to attend meetings to discuss how they could bring in property management and how to form Owners Corporation. We distributed notices and promotional materials. We compiled the owners list to facilitate the owners meetings. We provided the meeting venue free of charge and helped with all the logistics. On the technical side, our BMMS helped to conduct building inspections at no cost to the owners and provided professional advice on the long-standing maintenance problems facing the related buildings.

Finally, an Owners Corporation was successfully formed with the assistance of our Property Management Advisory Centre and the Home Affairs Department.

There was still a lingering problem. Due to the small number of units there – only 54 of them – it lacks the economy of scale in employing a professional property manager. However, the successful formation of an

Owners Corporation has already helped them to make a big step into starting to carry out repair to their dilapidated and unhealthy living environment.

(C) Church Lane cluster (教堂里) – Shau Kei Wan

The third case is about the buildings in the Church Lane cluster which were built during the period of 1956 to 1958. In other words, they are about half a century old. There are 19 buildings, with 275 domestic flats and 34 non-domestic units. The largest building had 62 units but the smallest one had only 7.

Only one building had an Owners Corporation. 14 out of the 19 buildings were back-to-back, with entrances on different streets, but governed by the same DMC. For example, 2 Church Lane and 383A Shau Kei Wan Road were governed by the same DMC but 383A Shau Kei Wan Road and 383B Shau Kei Wan Road which shared the same common staircase were under different DMCs.

Under such circumstances, it is extremely confusing to distinguish the rights and liabilities of the owners over the areas and facilities shared by these buildings. In the face of these problems, we saw one solution was to allow cluster buildings which are physically inseparable to form one single Owners Corporation, although they may be governed by different DMCs. But this was not possible under the current legislation.

A word about the profile of the owners. Over 60% of the owners were senior citizens aged 60 or above. Most of them did not know each other. We visited all these flats and found that only 6 out of the about 300 owners wanted to set up an Owners Corporation, and these 6 owners were scattered over the 18 buildings. To make matters worse, 2 of them subsequently withdrew, having sold their flats and retired on the Mainland. One reason for their general reluctance to form an Owners Corporation was that they hoped the Government would one day decide to redevelop the area, thus entitling them to a handsome compensation. Before their dream comes true, they have to face the reality to repair their dilapidated building which was a hazard to themselves and to the neighbourhood.

(D) 13 Streets (十三街) – To Kwa Wan

The 4th case is about the To Kwa Wan “13 Streets” area which is a famous landmark in To Kwa Wan. Flanked by Kowloon City Road and To Kwa Wan Road, there are 11 short streets with imaginative names that are mostly related to auspicious animals – namely dragon, phoenix, deer, unicorn, eagle, lark, egret, cicada, swallow, horse and crane.

Beautiful though their names may suggest, anyone who cares to pay a visit to the area would be disappointed to see the grossly sordid buildings on either side of each of the narrow streets.

There are 83 buildings in the “13 Streets” area, with a total of some 2,500 residential flats and as many as 418 shops on street level. Built between 1958 and 1960, and due to lack of maintenance, the buildings are in a dilapidated condition. Of the 83 buildings, only 4 had formed Owners Corporations.

The “13 Streets” surely have their share of problems. Each street block is physically inseparable, but they are governed by 6 or more DMCs. For one thing, it is difficult to define “common area”.

To make matters worse, about 40% of the flats have been sub-divided. Moreover, the vast majority of the flats are occupied by tenants instead of the owners.

One of the startling features is that illegal structures are extensively erected on the roof area of all the 83 buildings. You will be surprised to learn that there are as many as 438 of such illegal structures!

The owners have very diversified interests – some hope the Government would redevelop the area and give them a good compensation, others are less optimistic. But they have one thing in common – they are too poor to afford proper maintenance and management. For those who see the need for renovation, the cost that they are prepared to contribute falls far short of the estimated cost for building repairs.

The Housing Society has carried out visits and surveys in this area. In the meantime, we are trying to offer assistance to bring in proper management

and maintenance before any redevelopment plans by Government will materialize. But up to now, it appears that no timetable has been set for this.

Problems in Forming Owners Corporations

From the 4 cases above, we can summarize the common problems among the old buildings in respect of the formation of Owners Corporation:-

- Owners are old or missing, and most of them have limited means
- Lack the concept of property management
- Want to wait for redevelopment by Government
- Lots of unauthorized structures erected
- Unclear building boundaries
- No economy of scale in engaging professional property management

Recommended Amendments to Legislation

The formation of Owners Corporation in old multi-owned buildings is the first step towards good property management. Since the launch of the BMMS in February last year, we have successfully assisted over 540 buildings to form Owners Corporations.

Most of the buildings are now planning their repair programmes or have actually started the renovation works, but there are also less successful cases like the last two cases which I just mentioned. The Government has already issued consultation papers to solicit the views of the public on how to manage and maintain old buildings. It is now intended to make it mandatory for old buildings to be inspected and repaired on a regular basis.

The intention is surely good, but it will need the co-ordinated efforts within government bureaux and departments, organizations like the Housing Society and URA, as well as the professionals in the industry.

But above all, the commitment of the owners is vital. They must understand that it is their responsibility to properly manage and maintain their own properties. And as the first step, they have to get together to form an Owners Corporation.

However, our experience has revealed the various obstacles faced by the owners in forming Owners Corporations even though they have a heart to do so. Some of these obstacles are inherent and cannot be resolved within the provisions of the existing legislation. It would thus be desirable for the legislation to be amended in certain areas to cater to cases such as small buildings with few and missing owners, buildings with inseparable lots under the respective DMCs and properties with sub-divided flats under strata titles etc.

The problem of urban decay is a threat to society and is something the Government has determined to tackle. The Housing Society is also committed to lend a helping hand to the old private buildings in Hong Kong. If the relevant legislation could be amended to facilitate the formation of Owners Corporations in the circumstances mentioned before, more owners will be able to fulfill their obligations in keeping their buildings in good shape.

Thank you very much!

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20 November 2006