

## LCQ11: Building Management (Third Party Risks Insurance) Regulation

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Following is a question by the Hon Kam Nai-wai and a written reply by the Secretary for Home Affairs, Mr Tsang Tak-sing, in the Legislative Council today (November 17):

Question:

Under the Building Management (Third Party Risks Insurance) Regulation (Cap. 344, sub. leg. B), with effect from January 1 next year, all Owners' Corporations ("OCs") are required to procure and keep in force policies of third party risks insurance in relation to the common parts of the buildings and properties of OCs. The minimum insured amount of each policy shall be \$10 million per event. In this connection, will the Government inform this Council:

(a) of the total number of buildings in Hong Kong which have formed OCs at present, and, among them, whether it knows the respective numbers of buildings the OCs of which have and have not procured policies of third party risks insurance, with a breakdown by District Council ("DC") district;

(b) of the total number of buildings aged 30 years or above in Hong Kong at present, and, among them, the number of those which have formed OCs, the number of those which have not formed OCs and whether it knows the reasons for that, as well as the number of buildings which have deregistered their OCs within the last two years, with a breakdown by DC district;

(c) of the number of OCs to which the cross-professional working groups ("the working groups") formed by the Government have provided professional advice; and as far as the working groups know, how many of such OCs have not yet procured policies of third party risks insurance to date and whether it knows the reasons for that, what kind of assistance the working groups have provided to these OCs, why such assistance has not been able to facilitate these OCs to procure third party risks insurance successfully, and what further initiatives the working groups are planning to adopt to help these OCs to successfully procure third party risks insurance by January 1 next year;

(d) whether the working groups are aware if any member of the management committees ("MCs") of OCs which have not yet procured policies of third party risks

insurance to date is intending to resign or dissolve the OC, so that he will not breach the law for failing to procure insurance policies after the commencement of the aforesaid Regulation; and

(e) whether, after January 1 next year, the authorities will immediately institute prosecutions against OCs and their MC members for failing to procure policies of third party risks insurance; if not, what objective criteria they will consider in offering a grace period and of the duration of the grace period?

Reply:

President,

The mandatory requirement for an owners' corporation ("OC") to procure a third party risks insurance policy ("insurance policy") in respect of the common parts of the building and the property of the OC aims at reducing the risks faced by owners in case of accidents and, at the same time, offering better protection for the public.

In 2007, the Legislative Council passed the amendments to Section 28 of the Buildings Management Ordinance ("the Ordinance") and the Building Management (Third Party Risks Insurance) Regulation ("the Regulation"). After consultation with the Panel on Home Affairs of the Legislative Council in December 2008, the Government announced that the legislation concerned would come into effect on January 1, 2011 to allow OCs to have sufficient time to procure insurance policies for their buildings.

The Regulation requires the third party risks insurance policy to cover liabilities incurred by an OC in relation to the common parts of the building and the property of the OC in respect of the bodily injury to and/or the death of a third party. The minimum insured amount of each policy shall be \$10 million per event.

Upon commencement of the legislation, if an OC fails to comply with the requirement to procure insurance, every member of the management committee ("MC") shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000. However, it would be a defence for members of the MC if they can demonstrate that they have exercised all due diligence to procure insurance.

The reply to the five-part question is as follows:

(a) As at 30 September 2010, the detailed figures of procurement of insurance policies for buildings with OCs in six districts with a relatively higher concentration of aged buildings are as follows:

	Number of buildings which have procured insurance policies	Number of buildings which have yet to procure insurance policies	Total
Central & Western	1463	91	1554
Wan Chai	1157	36	1193
Kowloon City	1293	109	1402
Sham Shui Po	970	130	1100
Yau Tsim Mong	1278	147	1425
Tsuen Wan	397	49	446
Other Districts	8984	193	9177
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Total	15542	755	16297

(b) At present, there are around 17 000 buildings aged 30 years or above in Hong Kong, and about 40% of them have formed OCs. We do not have statistics on OCs compiled on the basis of District Council districts and age of buildings. According to the register of OCs maintained by the Land Registrar, a total of six OCs, involving 14 buildings, have applied for deregistration over the past two years. Apart from forming OCs, owners of private buildings may choose to establish other residents' organisations such as owner's committees, or to employ property management companies to assist their daily operation in respect of building management and maintenance.

The reason for the relatively small number of old buildings with OCs, as we understand, is that the owners of these buildings are mostly elderly people and grassroots who, owing to financial constraints or other reasons, are not capable of improving the maintenance and management of the buildings in which they are living although they want to do so. Moreover, some owners, who are in anticipation of acquisition and redevelopment, are not willing to spend money on maintenance and

management of their buildings. Besides, it is common to find unclear titles in these buildings. It is also difficult to contact some owners who have leased their flats through agents.

In view of this, we have, in collaboration with the Hong Kong Housing Society and four professional associations of the property management industry, launched the Building Management Professional Service Scheme on a pilot basis since April 2010. Under this one-year pilot scheme, free professional advice and follow-up services on building management are provided to owners of old buildings based in clusters. We will draw on the valuable experience gained from the pilot scheme and discuss with the property management industry feasible modes of co-operation in the future.

(c) All District Offices ("DOs") have taken an active role in encouraging and assisting OCs in procuring insurance. We have taken the initiative to contact individual OCs and, taking into account their circumstances, provided them with a full range of assistance which include promoting the importance of procuring insurance policies to owners, providing information on insurance procurement and assisting OCs to convene meetings to discuss matters on insurance procurement, etc.

As far as we understand, upon receipt of an OC's request for procurement of insurance, an insurance company will normally conduct a risk assessment based on a number of factors, such as building age, existence of unauthorised structures, repair and maintenance condition of the building and claim history. Whether the insurance company accepts the insurance and the level of premium charged are quantitative risk indicators. We are aware that the OCs of some old buildings or those with unauthorised structures may be declined for insurance or required to pay higher premiums. To deal with such cases, we have been actively introducing to OCs various building maintenance loan and assistance schemes available and encouraging them to carry out maintenance to improve the conditions of their buildings. Once the required maintenance work is completed, the OCs may enjoy lower premiums.

With the above efforts made by DOs, as at September 2010, 15 542 or 95.4% of the total number of buildings with OCs have procured insurance policies. There are about 750 or 4.6% of the total number of buildings with OCs which have not procured third party risks insurance, among them about 30% have indicated that their buildings are under repair and they would procure insurance policies upon completion of the repair work, while about another 20% are asking insurance companies for quotations.

(d) and (e) We understand that individual MC members of OCs which have not procured insurance policies have expressed concern about possible violation of the law for failing to procure insurance policies. To further dispel doubts and worries of OCs and owners over the relevant legislation, the Home Affairs Department (HAD) has issued letters to all OCs early this month, informing them that if an OC encounters difficulties in procuring an insurance policy for its building, we will not take prosecution against the OC immediately when the relevant sections of the Ordinance have come into effect, provided that it can prove that it has taken the initiative and tried its best to procure an insurance policy by taking the following steps:

Firstly, the OCs should contact their respective DOs immediately. We will provide the owners with information of insurance procurement and assist the OCs to convene meetings to discuss matters related to insurance procurement.

Secondly, if an OC has been declined for insurance, we will refer the case to the Hong Kong Federation of Insurers ("HKFI") for assistance. We will also provide the OC with a list of insurance companies authorised by HKFI as insurers of third party risks insurance for buildings and a list of insurance consultant companies provided by the Professional Insurance Brokers Association to facilitate the OC's procurement of an insurance policy.

Thirdly, if the OC of an old building needs assistance in co-ordinating repair works, after knowing the reasons of decline for insurance, we will arrange for one-stop building management services to be provided by property management professionals so that the OC can secure insurance coverage within a reasonable period of time. These include providing assistance in electing members to fill vacant posts of the MC so as to restore normal operation of the OC, giving advice on how to improve the maintenance condition of the building, assisting the OC to invite tenders, and helping the OC to apply for financial assistance from various loan and assistance schemes administered by the Government and other supporting organisations.

The HAD has also issued letters to all OCs, inviting them to attend a new round of district talks jointly organised by HAD and HKFI later this month. During such talks, enquiries from OCs and owners who have not procured insurance policies will be answered.

Ends/Wednesday, November 17, 2010

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