



THE HONG KONG INSTITUTE OF
SURVEYORS

香港測量師學會

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(REVISED)

Mr Ma Siu Cheung, Eric, JP
Secretary for Development
Development Bureau
18/F, West Wing, Central Government Offices
2 Tim Mei Avenue
Tamar, Hong Kong

Dear Mr Ma,

Ownership Proof in Building Plan Submission

Probably you may recall the Hong Kong Institute of Surveyors (the "Institute") has brought up the concern on the hardship brought by the requirement of providing ownership proof in making building plans submission to the Buildings Department subsequent to the policy change in October 2010.

After years of experience, we see it would be appropriate to refine the said practice in view of the change in circumstances and the pressing need to speed up development and redevelopment process to help relieve the housing supply pressure of the society as well as to facilitate timely improvement of the increasingly dilapidated building conditions in many aged districts.

The past operation in the redevelopment projects has taken benefit of the advanced planning and design on the part of the developers and early approval by the government so that site works could be commenced virtually immediately upon final amalgamation of the last ownership which could sometimes take years. With this, many of the previous redevelopment cases had at least shortened one to two years of their redevelopment process. The advanced approval is also essential in ascertaining potential housing supply for the society.

We have no doubt that the government should have full appreciation of the hardship and side effect to redevelopment projects caused by the full ownership proof requirement. The requirement has also caused "deadlock" to numerous alteration and additions works and partial redevelopment works.

While the Buildings Department considers any A&A works beyond the existing building envelope is a kind of "new building", full proof of ownership of the entire "building site" is also likely required which is virtually impossible in a strata-titled building as per another circular letter issued by the Buildings Department on 29 July, 2013. In case of a house type development where individual house building is exclusively owned and assigned, alteration or future rebuild of that particular house structure is virtually unreasonably prohibited since full ownership proof of that original building site is remote if not impossible. Conversely, it would halt any justifiable and beneficial rehabilitation and improvement works to many existing aged buildings.

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We respect the Buildings Department's intention to request the proof of ownership is to facilitate assessment of the development parameters of the building site. However, as long as the submission could clearly demarcate the intended site boundary and all associated site particulars including the right of access and street provisions, we trust the BD should have already sufficient information and basis to consider the acceptability of the submission. Of course, in order not to encourage "fishing" submission, the applicant should be able to demonstrate the genuine or substantial control of each and every portion of land falling within the proposed building site. That "prospect of controlling" is however not necessary to be a "100%" ownership at the initial plan approval stage since full ownership entitlement is invariably needed to be sought by the applicant before carrying out of any site works. We concur that possession of ownership of no less than 80% of undivided share of each existing building or land lot forming the "site" should be regarded as having substantial prospect of controlling of the site for the purpose of initial approval of a building proposal.

There is established mechanism under the Buildings Ordinance to allow conditions be imposed by the Building Authority on approval of plans. Subject to the satisfactory demonstration of the genuine and substantial control of the building site to the Building Authority, condition could be imposed on the approval requiring full proof of ownership be provided before application for consent to commencement of works. This approval condition could be subject to a two years' validity period similar to the prevailing grant of exemption or modification by the Building Authority. This arrangement could allow entire discretion by the BA in consideration of each individual submission while respecting the provision of the law yet allowing flexibility in speeding up the redevelopment process.

In order to allow localized modification, upgrading or partial rebuilding of part of an independent and exclusively owned portion of an existing building complex, we consider the requirement of ownership proof for submission of general building plan for a "new building" of a de facto A&A works should be limited to the corresponding area or space affected by the works but not the ownership of the entire building or "site" if no additional gross floor area is involved.

We trust the government should now review the ownership proof requirement in order to remove those undesirable impacts brought to the industry and the building owners at large.

We shall be very pleased to meet with you to elaborate further on our suggestions.

Yours sincerely,

Sr Thomas Ho
President

cc Director of Buildings (Fax no.: 2840 0451)