



THE HONG KONG INSTITUTE OF  
**SURVEYORS**

香港測量師學會

PRESS RELEASE  
for Immediate Release  
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**The Hong Kong Institute of Surveyors  
Comments to Consultation Paper on  
ADVERSE POSSESSION**

The Adverse Possession Sub-committee of the Law Reform Commission released a Consultation Paper (the Paper) on 10 December 2012 making preliminary proposals for the reform of the law on adverse possession. The Hong Kong Institute of Surveyors (HKIS) submitted response to the Law Commission of Hong Kong and we have the following views:-

1. HKIS has no objection to retain the law of adverse possession as it help protecting against stale claims; avoid land becoming undeveloped and neglected; prevent hardship when a squatter has incurred expenditure to improve the land under mistake as to ownership or boundary.
2. HKIS strongly urge the Administration to enact legislation for determination of land boundaries which will enable identification of the extent of land parcels with certainty. Knowing the exact boundaries of property is of utmost importance for protecting the rights and interests of property owners. Certainty of land boundaries is essential for the Government to carry out its duties to administer the leased and unleased land, to control land use and to plan land development. Good land governance needs the support of an effective land boundary system. The legislation for implementation of determination of land boundaries is necessary for bringing certainty to the location of land parcels.
3. HKIS agrees that the existing provisions on adverse possession can be retained but whether it can offer practical solution towards boundary problems is questionable not to mention it might invite more litigation. The Institute considers that the key to solving land boundary problems is to provide legal backing for determination of land boundaries. HKIS opines that it is of vital importance for the Administration to take the lead to implement a legal framework for Determination of Boundaries through Land Survey Ordinance.
4. HKIS supports that the law of adverse possession should be recast under the prospective registered land system. We would urge the Government for an early implementation of the land title registration system.
5. The Paper recommends the requirement that the squatter should register an application for adverse possession before he could acquire absolute title to the land. HKIS agrees that this would help to protect the rights and interests of the property owner in a sense that he would be notified of the squatter's intention to claim adverse possession and thus would have a chance to object to such application. We generally welcome this approach.
6. HKIS supports the implementation of the 10 year adverse possession plus 2 years notice requirements, it would prevent the squatters stealthily taking away title owner's land without alerting the title owner of such intention. HKIS is also of the view that the notice should be accompanied with an accurate plan of sufficient information to alert land owners involved about the extent of the land being occupied.

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7. As to whether the case of 60 years' adverse possession against the Government land should be abolished, HKIS considers that this issue warrants further consideration as it would create adverse impact to land development. A claim of adverse possession on a piece of government land may delay the process of development especially in our times of scarce land resources in contrast to the high demand for development lands.
8. HKIS fully agrees that Government should be urged to step up its efforts to address the boundary problem in the New Territories. We consider that resurvey of the boundaries would resolve most, if not all, of the problem mentioned. Providing a legal framework for determination and ascertaining land boundaries are essential for protecting the rights and interests of property owners as well as to ensure the effectiveness of land management in Hong Kong.

– End –

#### **About the Hong Kong Institute of Surveyors**

Established in 1984, The Hong Kong Institute of Surveyors is the only professional organization representing the surveying profession in Hong Kong. As of January 2013, the number of members reached 8,426, of which 5,614 were corporate members. The Institute's work includes setting standards for professional services and performance, establishing codes of ethics, determining requirements for admission as professional surveyors, and encouraging members to upgrade skills through continuing professional development.

The Institute has an important consultative role in government policy making and on issues affecting the profession. We have advised the Government on issues such as unauthorized building works, building safety campaign, problems of property management, town planning and development strategies, construction quality and housing problems. We are working on amendments to standard forms of building contract and have issued guidance notes on floor area measurement methods.

For more details, please refer to HKIS website: <http://www.hkis.org.hk>

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