



THE HONG KONG INSTITUTE OF
SURVEYORS

香港測量師學會

HKIS GUIDE TO GOOD PROPERTY MANAGEMENT PRACTICES



The HONG KONG INSTITUTE OF SURVEYORS

GUIDE TO GOOD PROPERTY MANAGEMENT PRACTICES



Foreword

There is a long history of surveyors being employed in the management of housing estates and properties. With the formation of the Property and Facility Management Division, we surveyors are now able to collectively advise government and the public in the practices in good property and facility management. This HKIS Guide to Good Property Management Practices will form the base for the development of other useful documents for the reference of surveyors and managers who are undertaking operational control of managing properties and facilities.

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Chairman
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The Hong Kong Institute of Surveyors

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Acknowledgement

I would like to extend my greatest gratitude to the marvelous efforts of all the Working Group members who have contributed their valuable time on preparation of this Guide. I can assure that without their efforts, this Guide will not be published successfully. The Working Group members include the following HKIS members:

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In addition, I would also thank the former Property Management Committee, which was set up before the formation of the current Property & Facility Management Division, and the Committee has already advocated to publish a Guide to Good Property Management Practices and prepared much ground work that has facilitated the Working Group with much useful information and materials.

I hope all the readers can find this Guide useful and practical on their day-to-day property and facilities management operation. The HKIS also intends that the standard and quality of property and facilities management in Hong Kong can be enhanced.

Mr. Daniel W. L. Hui
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The Hong Kong Institute of Surveyors

Definition of Property Management

Property Management is the integration and management of various human activities or interactions arising from the use or occupation of premises for one or more of the following purposes:

- (a) To generate and maintain capital as well as rental revenue to the landlord;
- (b) To provide a property resource as an input for the production of goods and services; and
- (c) To provide a decision making process to resolve conflict between owners in multiple ownership premises and to maintain owners' assets.

Effective property management comprises myriad services varying in accordance with the type of focus; i.e. strategic, investment, operational and occupational. These services range from property strategy, pre-acquisition consultation and lease management to operation of property, financial management and contract administration.

**Property & Facility Management Division
The Hong Kong Institute of Surveyors**

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1.0

**Guide to Good Property
Management Practices**

1.0 Guide to Good Property Management Practices

Relevant
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1.1 Introduction

The Hong Kong Institute of Surveyors (hereinafter named as “HKIS”) prepares this HKIS Guide to Good Property Management Practices (hereinafter named as the “Guide”) with the aim of an attempt to promoting a better appreciation of property and facility management service standard that an occupier of a property may reasonably expect. Successful property and facility management relies upon the degree of the co-operation, mutual understanding and problem solving strategy adopted by all major stakeholders.

This Guide is intended to be read by property owners, tenants, occupiers, property managers and those interested in property management. The HKIS aspires to promote a better standard and professionalism for property and facility management and to arouse the awareness of all stakeholders on the necessary legal requirements.

This Guide has been prepared to focus on fulfilling, namely, legal requirements, cost effectiveness, convenience to users, efficiency in management, reasonableness in execution and quality standard.

Additional copies of this Guide can be obtained from the HKIS for further reference by relevant parties in managing their respective properties/organisation.

1.2 Definition

It is quite difficult to avoid using completed terms or terms implying the same meanings to all people. Some of the terms being repeatedly used in this Guide are defined below for better understanding.

1.2.1 *Owners’ Organisation*

The “owner’s organisation” shall collectively refer to the Owners’ Corporation or Incorporated Owners (including the Management Committee) formed under the Building Management Ordinance (Cap. 344), the Owners’ Committee as defined in the respective Deed of Mutual Covenant, and the Mutual Aid Committee set up under the guidance of the Home Affairs Department.

Building
Management
Ordinance

1.2.2 *Property*

The “property” shall collectively refer to a block of building, or several blocks of building on the same estate, for commercial, industrial, residential, car parking or public use incorporating the common areas, recreational and leisure facilities, landscape gardens and building services installations, etc. It shall also refer to the individual units enclosed within a building block owned by individual property owners.

1.2.3 *Property Manager*

The “property manager” shall refer to the person or company performing day-to-day overall control and management of a property.

This person could be the property owner personally, an authorised employee of a corporate owner, a property management company or a formal owners’ organisation.

1.2.4 *Property Owner*

The “property owner” is a person who, or a company which, owns the leasehold interest of a property under a Government lease or land grant, or an individual under an assignment executed with a property developer and having the exclusive right of possession and control over the use and occupation of a property.

1.2.5 *Resident or Occupier*

The “resident or occupier” is a person who lives in a domestic unit, or a person using or visiting a property for business, dwelling, temporary vacation, manufacturing process, leisure or other purposes.

1.3 Disclaimer

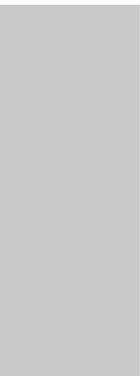
This Guide is not an authoritative or complete statement of relevant laws. No responsibility for action, loss or damage occasion to any persons, acting or refraining from action, as a result of the contents included in or excluded from this Guide can be accepted by the Hong Kong Institute of Surveyors.

Relevant Ordinance

If anybody would be in doubt about his/her rights or would be considering taking legal action concerning any property and facility management issues, it is advisable for him or her to consult a solicitor, a registered professional surveyor or other qualified professionals.

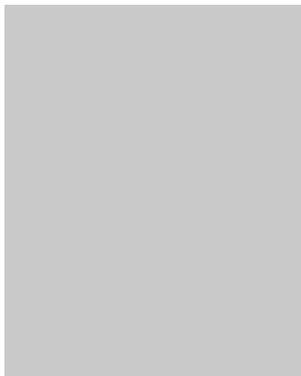
This Guide only applies to the properties located in the Hong Kong Special Administrative Region of the People's Republic of China.





2.0

Management/ Operation Procedures



2.0 Management and Operation Procedures

2.1 General Duties of Staff

Senior management of a property management company commonly refers to the directors, general managers or senior property managers whom are usually responsible for the overall management of the whole organisation or on a regional basis supervising several on-site property managers. They shall be held responsible for the net financial performance and the quality assurance of the organisation. They generally have the power of dismissal of misconduct staff and setting-up of the company's vision, mission, code of practice and guidelines.

On-site property managers refer to the employees stationed in a property on a full time basis who is responsible for the property's overall day-to-day operation management. They need to supervise front-line staff such as caretakers, technicians and outsourced service providers, such as security, cleaning and maintenance contractors. They also need to prepare an annual management budget to be approved by owners' corporation under the ordinances.

Maintenance staff refers to those employees responsible for the maintenance matters of the property. They need to carry out day-to-day minor repairing works to the building fabric and the building services installations, and supervision of maintenance services contractors.

Maintenance surveyors or engineers of the maintenance team need to conduct regular inspection to the property, suggest possible improvement work, prepare short term and medium term planned maintenance programmes, long term improvement plans, and annual maintenance budget.

2.2 General Conduct and Discipline

2.2.1 *Prevention of Corruption and Bribery*

The property manager shall familiarise himself with issues regarding prevention of corruption and bribery, and its associated legislations.

The Prevention of Bribery Ordinance (Cap. 201) stipulates that, any employee who, without the permission of the employer, solicits or accepts any advantage in the performance of any job-related duties, shall be guilty of an offence, and any person who offers any advantage shall also be guilty of an offence.

Section 9 of
Prevention of
Bribery
Ordinance

Relevant
Ordinance

The property manager shall immediately report any malpractice to the Independent Commission Against Corruption (ICAC); and implement effective measures to prevent corruption such as formulation of explicit policies on employees' acceptance of benefits, adopting sound financial, administrative and monitoring systems; and making employees, property owners and occupiers understand their relationship with anti-corruption legislation and the importance of counteracting corruption.

2.2.2 *Staff Conduct and Discipline*

Staff shall be punctual in reporting duty and shall not be absent from work while on duty. Property shall not be left unattended during normal duty hours, unless practically unable to do so and with property owners' consent. In the event of any staff, especially security guards and caretaking staff, not being relieved from duty at the appropriate time or within a reasonable period thereafter he or she should advise his or her superior or the property manager. Staff shall remain attending to the property until proper arrangements are put in place for replacement or as instructed otherwise by his or her superior.

Uniformed staff is required to wear the company uniform, and where applicable, bear the company identification card at all times while on duty. The uniform must be kept clean and tidy so as to exhibit a pleasant appearance at all times.

Sleeping, gambling, drinking alcohol and taking non-prescribed or dangerous drugs while on duty are strictly prohibited.

The following breaches of discipline are considered serious:

- (a) Misconduct of staff in a manner inconsistent with the due and faithful discharge of their duties.
- (b) Fraud or dishonesty.
- (c) Habitual neglect of duties.
- (d) Violation of company policies or the laws of Hong Kong Special Administration Region.
- (e) Establishment of competitive business or activities against or infringe the company's business operation.
- (f) Solicitation of money or advantages from occupants, tenants or other persons visiting the property.

Relevant
Ordinance

An internal company-wide staff disciplinary procedure is recommended to be established. As a general guide, all staff's misconduct incidents shall be properly recorded and documented preferably with appropriate witnesses during the handling of discipline cases. Furthermore, the principles of fairness, promptness, investigation, representation, trial and adjudication shall be adopted. Proper authorisation of handling different types of disciplinary actions shall be formulated for various categories of staff. Human Resources Department shall always be kept informed or act as witness on any disciplinary action.

2.3 Owners' Meeting

- a. Meetings shall be held in accordance with the requirements of the Deed of Mutual Covenants (DMC) or Building Management Ordinance (BMO), or subject to the Management Committee (MC)'s direction.
- b. An agenda of the meeting is usually required to be prepared and circulated as a notice to all members of the MC not less than 7 days prior to the MC meeting. If it is an Owners' General Meeting, a 14-day prior notice is required.
- c. Meeting minutes shall preferably be prepared no later than 21 days after the meeting has been held or such other time as specified by the MC.
- d. The meeting minutes shall be prepared by the Secretary and signed by the Chairman of the meeting or a nominated member and shall be confirmed in a subsequent MC meeting.
- e. The meeting minutes shall be displayed on a prominent place approved by the MC for other owners' reference within 28 days after the date of the meeting.
- f. The minimum quorum and the appropriate means of serving notice of meeting as prescribed by the DMC or BMO shall be strictly followed to enable a valid meeting.

Building
Management
Ordinance

Building
Management
Ordinance

Building
Management
Ordinance

2.4 Daily Inspection and Reporting

The property manager shall assign a competent staff member to conduct regular patrol on the property and its surrounding areas at least once daily. During the routine patrol, attention should be drawn to the operational and functional performance of the property facilities and general cleaning conditions. A "Patrol Report" should be prepared immediately after the daily patrol and forwarded to the property manager for review.

If the daily patrol revealed the need for maintenance service on the property facilities, a repair job order shall be issued to the on-site maintenance staff for follow up action. In this connection, a proper "Maintenance Works Register" shall be kept for record purposes. Numbering serial shall be assigned to each repair job order to facilitate future retrieval. For urgent cases, such as sudden bursting of a water pipe, the maintenance staff may be notified verbally to attend the repair, followed by a written repair order. If the works require the service of an outside contractor, a special repair job order may be issued to the contractor requesting for such services and a similar register system shall be formulated. For procurement via tendering procedures, please refer to Section 7.0 herein below.

If the daily patrol reveals a need for cleaning service, a cleaning job order shall be issued to the cleaning service contractor for follow-up action. In this connection, a proper "Cleaning Job Register" shall be prepared as a record of cleaning work done. Numbering serial shall be assigned to each cleaning job order to facilitate future retrieval. For urgent cases that may give rise to great inconvenience or adversely affect the environment, the contractor may be instructed verbally to attend the work, followed by a cleaning job order. All completed orders shall be returned to the Management Office for record purposes.

Various external facades of the property shall be inspected at least once a week to check against any unauthorised structures or appendages being installed that breaches the DMC or related Buildings Ordinances. The patrolling staff shall report these irregularities immediately to the property manager who shall issue warning notice to responsible parties requesting for removal. The Buildings Department shall be informed if the responsible parties persistently ignore the property manager's notice or the unauthorised structure would endanger structural safety to the property.

The patrol staff shall also pay special attention to incidents of obstruction to any fire escape routes, corridors, passage ways, etc. Immediate notice shall be issued by the property manager to the responsible parties requesting removal of the obstruction to avoid causing fire hazard. The Buildings Department and/or Fire Services Department may be informed or the property manager shall immediately remove the obstruction if the responsible parties persistently ignore the property manager's notice.

2.5 Inspection by Senior Staff

The purpose of regular inspections by senior staff is to ensure that good quality property management services are delivered. Random or surprise checks enable them to capture the genuine level of performance of the on-site staff as well as the service contractors. Furthermore, site inspection provides essential particulars and/or special conditions of the property being managed.

The inspection can be conducted during office hours on a regular basis or randomly by surprise. For checking the performance of night shift staff or special service contractors, surprise checks at night shall be deemed necessary.

For the large property management company where a full checking of all properties within a short period of time may become impractical, at least a selected percentage of properties need to be inspected at a pre-determined interval of time.

It would be prudent that a site inspection record shall be prepared to indicate the findings from the inspection, e.g. staff disciplinary problem, absenteeism, etc. which shall be forwarded to senior management and Human Resources Department for reference. The senior staff shall follow up with substandard performance of staff or contractors with either a subsequent inspection or meeting with the personnel concerned. Other irregularities revealed shall be followed up by appropriate action within reasonable time subject to the circumstances and work required.

2.6 Complaint Handling

Relevant
Ordinance

The property manager should formulate a proper and effective complaint handling procedure to enable good customer service. The procedures adopted are to suit the special needs and requirements of the property being managed. The following procedures are recommended:

- (a) All complaints, regardless of verbal or written ones, should be recorded in a proper and retrievable "Complaint Register" for follow up action. Serial numbering shall be assigned to each complaint to facilitate future retrieval.
- (b) A special "Security Complaint Register" may be established separately to record those complaints received by caretaking staff or security guard who have direct contact with residents or occupants especially outside normal office hours or during holidays.
- (c) The on-site property manager or the officer-in-charge shall regularly examine the complaint record to review the progress of follow up action.
- (d) The on-site property manager or the officer-in-charge shall designate an on-site staff to be held fully responsible for the follow up action on complaints especially for serious and/or complicated cases.
- (e) The property manager shall formulate proper performance pledge indicating how complaints can be resolved. For good practice, it is suggested that verbal complaints shall be replied within the same working day or day after. For written complaint, reply shall be issued to complainants within seven working days. Whilst complicated complaints which may require referral to a third party or a government department, an interim written reply within seven working days shall be given and final written reply to be issued once the complaints have been settled.
- (f) In case where the complaint relates to the service of a service contractor, a proper transferal system shall be formulated to ensure an effective issuance of job orders, site instructions, etc. to relevant contractors and works being registered for follow up action.

Relevant
Ordinance

- (g) It will be prudent to ask the complainants to signify satisfaction in the "Complaint Register". In case where the complainant is unwilling to signify satisfaction, the on-site property manager shall designate a staff member to make follow-up call to the complainant at a regular interval, say once a month, to ensure the complainant has been satisfied with the action taken. All these follow-up calls should be recorded in the "Complaint Register".
- (h) Regular customer satisfaction survey by means of questionnaire or face-to-face interview shall be conducted by the property manager to enable the understanding of performance rating perceived by the customers and as a means for proactive planning of corresponding improvement measures.

2.7 Recruitment and Termination of Staff

Employers who fail to comply with the provisions in the Employees' Compensation Ordinance (ECO) are liable to prosecution. The ECO also makes it mandatory that all employers shall take out insurance policies to cover their full liabilities. If an employee is injured in an accident arising out of and in the course of his/her employment, the employer concerned must notify the Labour Department accordingly.

Employees'
Compensation
Ordinance

The provisions of the Mandatory Provident Fund Schemes Ordinance (MPFSO) stipulate that all employees shall join the scheme unless they have already joined their employer's current pension scheme which is exempted from the MPFSO. The MPFSO was fully implemented on 1 December 2000.

Mandatory
Provident Fund
Schemes
Ordinance

Only competent staff shall be recruited or deployed to respective posts so that they are capable to discharge their duties effectively and efficiently.

Newly recruited staff may be employed on a probationary basis for a certain fixed period of time during which their performance are under close supervision by their immediate supervisor. Decision of permanent appointment will be geared to their performance during the probation period.

A proper staff performance appraisal system shall be formulated by the Human Resources Department as a periodic assessment of the existing staff's performance by their supervisor and the senior management. Decision of promotion and upgrading of existing grades will be geared to their performance during the period under assessment. Customers' commendation or complaint against particular staff shall be recorded in their personal file. These commendations or complaints shall be discussed between the staff and their supervisor as encouragement or request for improvement.

2.8 Training of Staff

The purpose of training is to provide guideline and specific job knowledge to the staff so that they could perform their duty competently, efficiently and effectively.

Training can be organised internally by the Human Resources Department, Training Department, other academic institutions or management consultants.

Internal training usually comprises Induction Training for newly recruited staff and Job Specific Training for designated posts.

Induction Training provides new staff with the information such as organisation background, history, vision and mission, quality management strategies, personnel and administration policies, etc. while Job Specific Training provides the staff with specific job knowledge, such as computer system, tendering and contractual procedures, insurance policies.

Trainee attendance record shall be kept and updated by the Human Resources Department to make sure relevant training courses are provided to the staff. Clear attendance record also helps avoid duplication of admission on the same course.

Staff may also be nominated to attend external training course by their supervisor either to acquire the necessary updated knowledge, advanced technology, revised legislation or as personal development. Recommendation can be made based on position requirement, staff performance or as incentive to encourage personal advancement.

Training record shall be kept and updated by the Human Resources Department for future reference especially during periodic appraisal and consideration of promotion.

Relevant
Ordinance

The Human Resources Department shall be responsible for identifying staff training needs, after consultation with all department heads, and eventually preparing the company-wide Annual Training Schedule. The purpose of such schedule is to prepare for budget planning and to avoid the occasion of too many attending training at a time, giving rise to a manpower shortfall.

2.9 Night Check

Periodic night checks shall preferably be conducted by the Head Office of the property manager at least once a month by at least 2 management staff members.

Night checks shall be conducted after normal office hours, preferably after midnight and the following aspects shall form part of the inspection list.

- a. Security
 - check attendance record;
 - check head count to ensure sufficient contract manpower is provided;
 - check whether proper uniform and company badges are worn;
 - check identity card to ensure no illegal immigrants are employed;
 - check "Security Personnel Permit" to ensure compliance with statutory requirement;
 - observe the performance of security personnel to see any dereliction of job duties.

- b. Cleaning
 - check whether all household garbage is removed;
 - check whether the door of refuse room has been locked;
 - check whether refuse bins have been properly covered;
 - observe the general cleaning condition of the property.

- c. Caretakers
 - check attendance record;
 - check whether proper uniform and company badge are worn;
 - check whether the "Security Personnel Permit(s)" are available;
 - observe the performance of caretakers to see any dereliction of job duties.

Security and
Guarding Service
Ordinance

Security and
Guarding Service
Ordinance

Relevant
Ordinance

- d. General - Walk around the property and observe any irregularities.

After conducting the night check, an inspection report should be prepared by the night check team which shall note down all irregularities and findings from the inspection, and recommendation of remedial action. The inspection report shall be forwarded to the on-site property manager for follow up action and the result of all actions taken shall be reported to Head Office.

2.10 Taking Over New Property

2.10.1 Human Resources

Human Resources Department shall be informed in advance to recruit sufficient staff before commencement of management services for a new property. Only personnel with appropriate licence or permit will be deployed to relevant posts. For example, caretaker shall be equipped with Security Personnel Permit.

Security and
Guarding Service
Ordinance

Proper uniform and staff identity shall be provided to the staff deployed to the new property. All necessary training shall also be arranged for the staff.

2.10.2 Insurance

To liaise with insurance company and to ensure proper third party risks insurance coverage shall be effected from the property handover date.

Building
Management
(Third Party
Risks Insurance)
Regulation

2.10.3 Account

Accounts Department shall be informed in advance and be equipped with a copy of the management agreement, tenancy agreement, DMC, financial statements, audit reports and the agreed budget so that proper accounting control procedures can be effected from the property handover date. The property manager shall also enquire into the existence of any funding that had been set up for the maintenance, improvement, etc. of the property.

A separate bank account for the property shall be opened. The property manager shall also check with the management agreement whether the client is required to contribute for initial management set-up and shall bank-in all client's money into this separate bank account.

Relevant
Ordinance
Building
Management
Ordinance

All owners or occupiers' particulars and records shall be input to a computer system for debit note generation, for example. There shall be proper procedures to control the collection, holding, processing or use of personal data of the owners or occupiers.

Personal Data
(Privacy)
Ordinance

All latest debtor lists with any outstanding breakdown shall also be recorded for follow-up of arrears action. Information on any proceeding legal action shall also be made available. Latest financial statements and/or audit reports shall be obtained from the client or ex-property manager.

2.10.4 *Maintenance*

Maintenance team shall be set up before takeover and shall obtain all necessary as-built general building plans, building service drawings and operation and maintenance manuals from client or ex-property manager. It is recommended to conduct pre-handover visit to record down any major building and system defects for future follow up action.

Details of warranty period for the material supply contracts, defect liability period and maintenance services contracts shall be made available.

2.10.5 *Management Operation*

To formulate a management and maintenance procedure or operation manual tailored to the property concerned whilst complying with the management agreement's requirements. Proper job descriptions shall also be prepared for each specific post of the staff.

To arrange tenders for all management and maintenance services contracts such as cleaning and security services. If the service contracts are still valid, negotiation shall be held for the transfer of the contract party. Client shall be advised for procurement of all necessary furniture in management office, communication equipment such as fax machine, computer, copier and walkie talkie, etc.

Relevant
Ordinance

To formulate proper Fit-out Guide, Occupants Handbook, House Rules and other facilities regulations, and to ensure proper posting of such on appropriate notice board as well as delivery such to property owners or occupiers after taking over of property.

To arrange transfer of utility services accounts from the client or ex-property manager.

To ensure posting of proper escape routes plans, notice signs, etc. at prominent locations reminding occupants of fire safety.

2.10.6 *Security*

To set up control centre and ensure proper emergency manual, emergency contact list and necessary emergency equipment are available.

To design and set up proper security patrol route and installation or renewal of security monitoring system and patrol equipment.

2.10.7 *Others*

Service contractors' contact lists shall be made readily available at on-site management office.

Respective statutory certificates, such as lift certificate, fire certificate and gondola certificate shall be readily available.

An ad hoc project team may be set up and a leader is assigned to monitor the whole takeover process. Site meetings may be held between the project team members and the property owners' representatives, the existing management company where necessary, the service contractors, etc. and the project leader shall upkeep properly all site meeting minutes, contacts of property owners' representatives and contractors.

Project leader shall conduct site visits to inspect the condition of the property and to review whether the planned manpower and operating procedures are able to meet the actual needs and clients' requirements. He/she shall also confirm the actual date and time of handover with the client or the ex-property manager.

The property manager shall use its best endeavour to identify if there is any unauthorised building works in the property and make proper record and advise relevant parties of the same.

Upon receipt of the keys, these should be identified, tested and recorded in a Master Key Register. Inventory record and fixed assets shall be checked and properly recorded.

2.11 Insurance

Taking out insurance aims at providing compensation for damages to assets, death and personal injury incurred as a result of accidents. The property manager shall affect adequate insurance policies to cover the common parts and facilities of a property. The purpose of effecting insurance cover is to avoid the need of raising money from property owners in case of losses, and avoid delay in repairs and settling disputes.

There are three main types of insurance which the Property Manager shall consider:

- (a) Public Liability Insurance (sometimes known as Third Party Liability Insurance). This covers claims for compensation and associated legal costs as a result of damage or personal injury to a third party caused by the insured's negligence during the management of the property. The amount of cover is usually determined on the basis of the highest compensation payable for a single accident.
- (b) Property-All-Risk Insurance: This covers claims as a result of damages arising from fire or other risks (such as storm, flood, etc.) on the property. The amount insured should be able to cover the current reinstatement costs of repairing or replacing the common facilities or assets of the property.
- (c) Employee Compensation Insurance: All employers are required, under the Employees' Compensation Ordinance, to take out insurance which covers employers' liability as a result of employees being accidentally injured in the course of employment. The amount of cover shall be determined on the basis of the total annual income of all the employees, including bonus, cash award and overtime allowance.
- (d) Money insurance to cover risks of loss of cash-in-transit and cash-in-premises as a result of thief, burglary or accident. The amount of cover shall be determined on the basis of maximum daily available cash in management office.

Building
Management
(Third Party
Risks Insurance)
Regulation

Employees'
Compensation
Ordinance

Relevant Ordinance

It would be prudent if the property insurance policy is effected under the joint names with the owners' organisation, such as owners' corporation.

When taking out insurance, information supplied to the insurance company must be accurate and attention should also be paid to ensure sufficient coverage, appropriate terms and conditions of the policy. The amount insured shall be reviewed annually to reflect inflation, rising property costs, etc.

A copy of insurance policy shall be made readily available for inspection by the property owners at the management office.

In case of any accidents occurred, the property manager shall inform the insurance company immediately and shall not be later than the period as stipulated in the policy.

The property manager shall review the insurance policy in case of renovation works being executed. If necessary, separate Contractor All Risks insurance shall be provided or the existing policy extended to cover the risk of the works.

3.0 Security Service

3.0 Security Services**3.1 General**

As a preventive measure to improve the security standard of a property, the property manager shall consider:

- (a) Regularly review and strengthening crime prevention measures in the property, e.g. improving the lighting of staircase and corridor, installing alarm, access control, close-circuit television and intercom system;
- (b) Any electric-operated entrance gate, if installed along fire escape route, shall be able to be opened manually in case of power failure;
- (c) To organise fire safety seminars and fire drills regularly;
- (d) Electrical and mechanical room, refuse chamber, store room or the like shall be properly locked to prevent burglars from hiding inside;
- (e) The caretaker's office shall be located at the main lobby to allow proper surveillance of visitors going in and out of the property;
- (f) A proper boundary fence, if conditions permit, shall be erected along the perimeter of the property and adequate lighting shall be installed;
- (g) Cultivating an awareness of crime prevention and security among residents;
- (h) Instituting civil proceedings against any premises for undertaking immoral activity to avoid undesirable entities from entering the property;
- (i) Equip with emergency procedure, contingency plan and emergency contact list within the 24 hour control centre so that the right persons can be contacted and proper procedures can be practised effectively in case of emergency.

3.2	Power of Caretakers and Security Guards	Relevant Ordinance
	<p>Security guards or caretakers may only deal with crime suspects under definite safe condition. Only reasonable and minimum degree of force can be applied. Besides, no handcuffs can be used.</p>	
3.3	Supervision of Caretakers and Security Contractors	
3.3.1	<i>Quality of the Caretakers and Security Contractors</i>	Security and Guarding Services Ordinance
	<p>Apart from installing or upgrading the anti-burglary and security equipment for the property, quality of the caretaker and security guard is also a crucial element to the improvement of property security in general. The Security and Guarding Services Ordinance stipulates that all security personnel performing security duties for reward should be required to hold valid Security Personnel Permits issued by the Hong Kong Police Force (HKPF). The property manager shall only employ those holding valid permits for executing security duty. The property manager shall ensure the caretakers and security guards will perform the following duties and responsibilities:</p>	
	<ul style="list-style-type: none"> (a) Prevent unauthorised entry to the property. HKPF shall be notified immediately if a suspect gets into a property who fails to provide satisfactory reason; (b) Register the visitors and workers going in and out of the property. There shall be proper procedures to control the collection, holding, processing or use of personal data of visitors and workers; (c) Record every major incident occurred, e.g. lift breakdown, power failure, alarm activation; (d) Record key borrowing particulars for machine rooms, meter rooms, etc.; (e) Any defects found during routine patrol shall be recorded in daily patrol reports and notify property manager or 24 hour Control Centre in non-office hours immediately on emergency cases; 	Personal Data (Privacy) Ordinance

- (f) Fire escape corridors and doors shall be kept clear all the time;
- (g) Attend emergency promptly and report to HKPF as appropriate;
- (h) Attend to complaints lodged by the property owners and occupants;
- (i) Control traffic flow and unauthorised parking on property roads or vehicular access;
- (j) Control of hawkers, cyclists, trespasses, etc.

Relevant
Ordinance
Code of Practice
for the Provision
of Means of
Escape in Case of
Fire

The property manager shall check regularly the manpower strength of the security personnel and the equipment provided by the security contractor from time to time to ensure it is in accordance with the manpower and equipment schedule of the service contract.

The age of caretakers and security guards and the training programme provided by the security contractor shall be checked to ensure compliance with statutory requirements.

Security
and Guarding
Services
Ordinance

The property manager shall prepare a duty roster, stating the names and identity of all security guards or caretakers preferably on a monthly basis to ensure adequate manpower would be available each day, taking account of leave arrangements and public holidays.

Whenever there is a change of security contractor, copies of Security Personnel Permit and identity card record of the new security guard shall be submitted to the property manager for reference. This record shall be updated once there is any change of security guard.

3.3.2 *Checking of Security Personnel*

The property manager shall conduct daily checking of the security personnel to ensure that:

- (a) adequate attendance according to pre-set deployment;
- (b) all fixed security posts are attended to;
- (c) proper uniform and company badges are worn;
- (d) no personnel smoke, drink alcohol or sleep while on duty;
- (e) personnel perform according to standing instructions and no misuse or abuse of power.

The property manager shall conduct regular meetings with the management team of the security contractor to review the performance of on-site security guard and derivation of any improvement actions.

3.4 Performance Appraisal

The performance of caretakers, security guards and security contractors shall be regularly reviewed by means of a proper appraisal system. Under-performed or incompetent security staff shall be replaced instantly to enable good security and guarding service provided.

The performance of the security contractor may be appraised by means of a standard monthly assessment form filled by the management staff responsible for supervision of the security contractor. Overall grading of performance may be given and either warning letter, commendation letter or termination notice of service contract may be served according to the pre-set grading. The assessment shall be forwarded to the on-site property manager for scrutinizing.

In-house caretakers are to be appraised according to the property manager's internal staff appraisal system.

The property manager shall also review the current manpower strength of security guards or caretakers, and the current security system installed on the property; and make all necessary recommendations for addition, reduction, modification and improvement to enable the highest quality of security guarding and surveillance service is provided.

3.5 Incident Report

Whenever there is any occurrence of crime, the security guard or caretaker apart from reporting to the Police shall prepare an incident report to record the incident.

Any occurrence of accident, outbreak of fire, flooding, bomb threat, blackout or similar incidents regardless of whether any persons are injured or not, and with a high potential of insurance claim, then the security guard or caretaker shall also prepare an incident report to record the incident.

Information which shall preferably recorded in any incident report includes:

- (a) Date, time and place of the incident;
- (b) Particulars of any personnel or witnesses involved;
- (c) Brief description of the incident;
- (d) Record of any referral to Police, Fire Services Department or other Government Department;
- (e) Record photos taken; and
- (f) Particulars of the security staff who prepare the incident report.

3.6 Night Check/ Patrol

During office hours, performance of the day shift security guard or caretaker could be monitored by the property manager during the routine inspection. Random night check shall therefore be conducted to ensure the night shift security guard or caretaker will perform the same standard of security service.

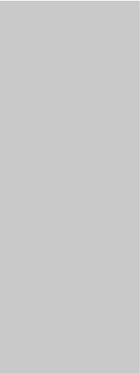
The night patrol team shall prepare night check records containing information of security guards or caretakers who are on duty, Security Personnel Permit detail, effectiveness of monitoring system such as CCTV, and any other incidents revealed during checking. The night check record shall be forwarded to the property manager in charge of the property who shall follow up with the problem found.

3.7 Pre-Approved Patrol Route

The property manager shall design a proper patrol route, which usually covers the areas exposed to high security risk, so that regular security visits can be conducted. The patrol route may be reviewed regularly especially the sequencing of visit on each individual patrol point to avoid being familiarized by suspects.

The property manager should consider the installation of a proper clocking system along the patrol route. This is to ensure that security personnel conduct regular patrol of the areas under surveillance. The clocking record should be examined regularly to ensure sufficient patrol and correct sequencing of patrol being conducted.

Proper security monitoring system such as CCTV cameras and video recorder, and alarm system such as panic alarm, door sensor may be designed and installed on the high security risk area to enable close surveillance. These systems could be connected to the control room for 24-hour monitoring.



4.0 **Cleaning** **Service**

4.0 Cleansing Service

4.1 Introduction

The cleansing work of a property may either be undertaken by in-house cleansing workers or outsourced to external cleansing contractors. No matter which arrangement is adopted, a proper and detailed cleansing schedule with specific work standards should be stipulated and observed by the cleansing contractors and workers.

4.2 Cleansing Standard and Performance

4.2.1 *Refuse and Junk*

- (a) Refuse collection and disposal services should be provided for premises and related common areas. For commercial wastes, such services should normally include on-site collection as well as disposal to specified off-site dumping points. For domestic premises, door-to-door refuse collection services according to an approved time schedule or other alternative arrangement as specified should be provided.
- (b) For recycling purpose, separate recycling bins should be provided for different types of refuse. Plastics, metal cans, paper, glass bottles, rechargeable batteries, and electronic appliances shall be disposed of separately from rubbish as far as possible. In addition, objects with sharp edges or of a hazardous nature, such as inflammable or corrosive substances, should be properly packed and disposed of separately.
- (c) Disposal services for junk, foliage and the like should be provided wherever necessary. Furniture and other bulky refuse should not be left unattended as they may cause obstruction to fire escape routes. The property manager should formulate a clearance schedule for occupants to dispose of such items on a regular basis.
- (d) Common areas, refuse collection chambers or points, refuse chutes, junk points, drains and sewers, and refuse bins which are in common use should be cleaned and maintained regularly. Refuse bins should always be kept covered and kept in a clean and tidy condition.

Relevant
Ordinance

- (e) Surface channels, roofs, canopies, podiums should be frequently inspected to ensure all accumulated refuse being cleared promptly and there is no blockage due to refuse, debris and leaves. Blocked drains should be cleared by all means including high pressure water jetting. Furthermore, grilled gratings should be kept intact to prevent rodents from entering into the premises.
- (f) The supervisory staff of the property manager should inspect the common areas regularly and notify the cleansing contractors and workers of any accumulation of refuse so that necessary clearance work is promptly arranged.

4.2.2 *Air and Noise Pollution*

Air Pollution
Ordinance

- (a) Chimneys, exhaust air ducts and associated installations shall be cleaned and maintained to ensure they are operated properly to avoid causing air pollution. Nuisance to neighbours. That may be liable to prosecution under the Air Pollution Control Ordinance.
- (b) Air-conditioners and chillers should be properly installed and maintained at appropriate locations. Wherever necessary, suitable sound insulation should be installed to mitigate any noise nuisance generated to noise sensitive receivers.

4.2.3 *Animals and Food Remains*

- (a) Pet or dog fouling should be prohibited in the common areas of a property. Dogs should be taken to use dog latrines. Any dog fouling should be removed immediately and the affected place should be promptly cleaned up.
- (b) Food remains should be cleaned up quickly to avoid attracting rodents or stray cats.
- (c) Animal remains, including dead birds, shall be properly bagged and removed by the Food and Environmental Hygiene Department and the affected places should be immediately cleaned and dis-infected to maintain public hygiene.

Relevant
Ordinance

4.2.4 *Water Dripping and Leakage*

- (a) It is an offence to allow water from air-conditioners to drip down the street under the Public Health and Municipal Services Ordinance. If there is no permanent condensation drainage system installed for the property, the water dripping from the air-conditioners shall be conveyed through flexible plastic hosepipes into the premises for discharge.
- (b) Pipe leakage should be promptly repaired to avoid wasting water or causing contamination to others.
- (c) If there is any water seepage through walls, ceilings and the like, the property manager should assist the occupier to locate the source of water. A professional building surveyor may be employed to investigate the cause of seepage and to offer expert advice, particularly for difficult and complicated cases. Furthermore, the occupier of the affected unit may employ a licensed plumber to conduct a thorough examination of the plumbing and drainage system. In all cases, the property manager should assist in gaining access to the upper unit, whenever necessary.
- (d) Leakage from common facilities should be promptly repaired by the property manager. If the leakage was caused by the occupier above, a formal request of rectification shall be issued to remind him of his liability under the DMC and BMO.
- (e) If seepage is suspected to be caused by other private drainage system, the occupier of the affected unit may seek assistance from the Food and Environmental Hygiene Department.
- (f) If the seepage is suspected to be caused by other private plumbing system, the occupier of the affected unit may lodge a complaint to the Water Supplies Department.

Public Health
and Municipal
Services
Ordinance

4.3 Pest Control

4.3.1 *Pest control services*

Pest control services should be provided to the common areas as necessary. Pesticides shall be applied in strict accordance with the latest statutory requirements and manufacturer's instructions.

Relevant Ordinance

4.3.2 *Mosquitoes Breeding*

Stagnant water may generate mosquito breeding and eventually cause health problems. Any person who allows such situation to happen may be liable to prosecution. The property manager shall therefore frequently inspect the open areas of the property, such as roofs, canopies, light wells, gardens, open courtyards, podiums and the like to ensure no accumulation of stagnant water. Water tanks should always be covered properly and damaged covers of tanks promptly repaired or replaced. Discarded cans, bottles and tyres shall also be disposed of immediately.

Public Health and Municipal Services Ordinance

In case of mosquito problems, breeding places should be eliminated and larval control actions, including use of larvicide, should be implemented. Whenever appropriate, equipment such as fog guns and thermal/cold foggers, should be adopted. Public health condition should be strictly maintained in all situations and proper warning signs should be displayed.

4.4 Supervision of Cleansing Contractor

The property manager should be familiarized with the terms and conditions of the cleansing contract, particularly the manpower schedule, scope and frequency of cleansing work, and performance standard.

Identity cards of cleansing staff should be copied to the management office for record to ensure no illegal immigrants are employed. When there is a change of cleansing staff, new copies of identity cards should be promptly submitted to the management office for record purpose.

The property manager should conduct regular checking on the head count of the cleansing workforce to ensure sufficient manpower being provided according to the contract. Cleansing contractors should be required to submit a daily return of attendance records to the management office for verification.

To handle non-routine cleansing work, a cleansing job order system should be established. The cleansing contractor should assign a supervisor to visit the management office at least twice a day for collection of new orders and returning of completed orders. The property manager should assign a management staff to handle complaints on cleansing standards and other ad-hoc cleansing incidents, to issue cleansing job orders, and to check irregularities of completed orders.

To implement routine cleansing work, cleansing schedules should be prepared, usually in form of a monthly schedule listing out the locations and frequencies of cleansing works required. The property manager shall post these schedules on the residents' notice boards for their information. The property manager shall also assign a management staff to check whether the cleansing contractor has carried out works according to the planned cleansing schedule.

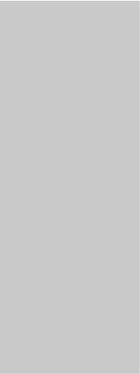
Furthermore, a daily cleansing log book should be properly maintained. The cleansing contractor shall record their daily cleansing work on the log book and submit it to the management office for verification. The records on the cleansing log book shall be tally with the planned cleansing schedules and specific requirements of job orders.

The property manager should ensure the cleansing contractor and their staff wearing proper and tidy uniform and displaying company badges for head counts and performance monitoring.

The cleansing contractor or their representative should conduct regular meetings with their on-site cleansing supervisor to review the performance of the on-site cleansing staff and the deviations of any cleansing improvement actions.

4.5 Performance Appraisal

The management staff responsible for supervising the cleansing contractor shall regularly appraise the contractor's performance, preferably on a monthly basis. Overall grading may be given according to the contractor's performance. A warning, commendation or termination notice of service contract may then be issued according to the pre-set grading. The performance assessment shall be forwarded to the on-site property manager for scrutinizing. Night check should also be done on a regular basis.



5.0

Repair and Maintenance



5.0 Repair and Maintenance

All structural elements, amenities and facilities of a property should be properly repaired and maintained to ensure that they are suitable for peaceful enjoyment by the occupiers. A property maintained in good condition gives an enhanced value and a better sense of comfort and safety.

Property maintenance should include replacement of components, fittings and elements of construction, where repair is not feasible, with up-to-date materials to meet the current regulations and standards.

It is prudent for the property manager to prepare a planned maintenance programme. Prior to its preparation, detailed inspection to the property should be conducted at least once every year to identify items for inclusion in the annual programme for the following financial year or the five-year forecast. It is also necessary to formulate a rolling programme for cyclic works over a term of years, such as internal and external redecoration of the property. A condition survey to the building fabric is normally conducted every seven years.

5.1 Property Information

To enable effective and efficient maintenance works to be carried out, the property manager should keep detailed information about the property. Such information should include the general building plans, as well as the layout plans and details of the following systems/installations:

- (a) plumbing and drainage systems;
- (b) fire services installation system;
- (c) electricity supply system;
- (d) mechanical ventilation and air-conditioning system;
- (e) gas supply system;
- (f) communal aerial broadcasting distribution system;
- (g) lifts and escalators;
- (h) extra low voltage installation system;
- (i) security and surveillance system; and
- (j) building management and automation system, if any.

Relevant
Ordinance

Apart from the above building drawings, information on technical standards, specifications and operation & maintenance manuals of the facilities should be kept in the Management Office at all times.

Contract documents for the provision and installation of the building services facilities usually include maintenance terms and guarantee or warranty of functions for a specific period of time and should be kept for reference.

5.2 Standards and Performance

5.2.1 *Building Structure*

General

The property manager should conduct inspection of the building structure regularly. In case of any problems unable to be resolved through routine maintenance, the property manager shall approach relevant professionals, such as professional building surveyors, to undertake the checking and supervision of repairs. If the state of the property is so poor that public safety may be threatened, the Buildings Department (BD) may be informed to issue order to the property owners concerned. The property manager may carry out the necessary repair works to enhance the health and safety of the public in case the property owners failed to comply with BD orders. Cost would yet be ascertained from responsible parties.

Buildings
Ordinance

Means of Escape

Means of escape and staircases should always be clear of obstructions. Unauthorised alteration and addition to these structures which cause obstruction and hinder occupiers from escape in case of fire are strictly prohibited. Smoke lobby doors shall always be kept at close position. Should any irregularities be discovered, the relevant occupiers should be advised to rectify the irregularities. The matter should be brought to the attention of the Fire Services Department where required.

Code of Practice
for the Provision of
Means of Escape in
Case of Fire

Unauthorised Building Works (UBW)

If property owners or occupiers ignore the interests of the public and carry out UBW or works which encroach on common areas of a property, the property manager should take appropriate actions as follows:

- (a) Serve notice to the owners or occupiers requesting for removal of the above works;
- (b) Report the incident to the Buildings Department and/or the Fire Services Department immediately;
- (c) Take appropriate legal action against the property owners or occupiers after seeking legal opinion, if such works are not permitted under the Deed of Mutual Covenant.

The property manager may engage professionals such as professional building surveyors to check on his behalf the legality of the existing building works.

External Parts

Owing to the exposure to natural environment, the external parts of a property are normally subject to severe weather conditions and thus deteriorate more rapidly than the interior.

The common problems of external parts of a property include cracking and debonding of finishing, spalling of concrete, rusting of metal components (such as piping and A/C racks), water seepage, cracked glass panes and the like.

Regular inspection and maintenance should be conducted to enable timely identification of these problems. Overlooked dilapidation and inadequate maintenance may lead to falling objects and thus infringe public safety.

Slope Maintenance

The property manager should carry out regular inspection and maintenance of slopes and retaining structures within the boundary of the property lot. In some cases, even though some adjacent slopes are not within the site boundary under the lease, the property owners might still be held responsible for the repair and maintenance of the slopes. The property manager should consult legal advisors or professional surveyors to verify the ownership and maintenance responsibility of such slopes.

Maintenance inspection to the slopes can be sub-divided into three categories:

- (a) Routine Maintenance Inspections, which can be carried out adequately by any responsible person with no professional geotechnical knowledge at least once a year.

Relevant
Ordinance

- (b) Engineer Inspection for Maintenance, which should be carried out by a professionally-qualified Registered Geotechnical Engineer and the duration is every 5 years.
- (c) Regular Monitoring of Special Measures, which should be carried out by a firm with special expertise in the particular type of monitoring service required.

The scope of Routine Maintenance Inspection will be as follows:

- (a) clearance of accumulated debris from drainage channels and slope surface;
- (b) repair of cracked or damaged drainage channels or pavement;
- (c) repair or replacement of cracked or damaged slope surface cover;
- (d) unblocking of weepholes and outlet drain pipes;
- (e) removal of any vegetation causing severe cracking of slope surface cover and drainage channels;
- (f) re-grassing of bare soil slope surface areas;
- (g) removal of loose rock debris and undesirable vegetation from rock slopes or around boulders; and
- (h) repair of missing or deteriorated pointing in masonry walls.

GEOGUIDE 5

5.2.2 *Electrical Installation*

General

The maintenance of any electrical installations should be undertaken by Registered Electrical Contractors or workers of respective grading.

Electricity
(Registration)
Regulations

The property manager should ensure that the electric power loading does not exceed the maximum loading approved by the power company.

Periodic Inspection and Testing

The Electricity Ordinance requires that an owner, which collectively refers to the property owners, Owners' Corporation, property manager, tenants and occupiers, of an electrical installation of the property which has an approved loading exceeding 100A shall be inspected, tested and certified once every five years. Those who contravenes the Ordinance will be subject to prosecution.

Electricity
Ordinance

Relevant
Ordinance

A Registered Electrical Contractor shall be appointed to test the electrical installations and a “Periodic Test Certificate” (Form WR2) for the electrical installations shall be issued by the contractor within one month after the test.

Within two weeks after the issue of Form WR2, it shall be submitted to the Electrical and Mechanical Services Department (EMSD) for endorsement. The EMSD may carry out ad-hoc and random inspection to ensure that the electrical installations meet the statutory requirements. The property manager shall make available the certificate for inspection upon the request of EMSD inspectors.

5.2.3 *Fire Services Installations*

General

Each property shall be equipped with all necessary fire services installations, such as hose reels, fire extinguishers, fire alarms and automatic sprinkler systems, in accordance with the statutory requirements. They shall be readily available on each floor of the property for the prevention, extinction and containment of fire, or for giving emergency alarm in case of need.

Code of Practice
for Minimum Fire
Services
Installation

Periodic Inspection and Testing

Fire Services
Ordinance

To ensure these installations will work effectively at all times, the property manager shall appoint a Registered Fire Services Contractor to inspect, maintain and repair these installations annually, and to issue a certificate (F. S. 251) in accordance with the Fire Services Ordinance.

Apart from the annual inspection and maintenance, the property manager shall also make regular inspections of the installations. Once they are found not working properly or damaged, a Registered Fire Services Contractor shall be employed immediately to carry out inspection and repair works.

Special Requirements for Prescribed Commercial Premises & Specified Commercial Building

Premises with an area exceeding 230m² and used for either of the following commercial activities will be regarded as falling within the definition of “prescribed commercial premises” under Chapter 502 Fire Safety (Commercial Premises) Ordinance:

Fire Safety
(Commercial
Premises)
Ordinance

Relevant
Ordinance

- (a) Banking
- (b) Jewellery and goldsmith's business having a security area
- (c) Off-course betting centres
- (d) Shopping arcades
- (e) Supermarket, hypermarket or department store

If a building was constructed to be used or is being used for the purpose of office, business, trade or any entertainment and the building either was constructed on or before 1 March 1987 or the plan of the building works of which were first submitted to the Building Authority for his approval on or before 1 March 1987, such building will be regarded as falling within the definition of the "specified commercial building" under the same Fire Safety (Commercial Premises) Ordinance.

Schedule 1, 3 &
4 of Fire Safety
(Commercial
Premises)
Ordinance
Chapter 502

The Director of Fire Services may require property owners or occupiers of "prescribed commercial premises" or "specified commercial building" to provide extra fire services installations and equipment in addition to the current provisions. The Director of Buildings may also request owners/occupiers of these properties to provide sufficient means of escape, means of access to facilitate fire fighting and rescue, and other proper facilities to inhibit the spread of fire and to ensure structural integrity of the property.

With effect from 1 July 2008, the building was constructed, or intended to be used partly for domestic purposes and partly for non-domestic purposes; or for domestic purposes and more than 3 storeys, and the building with its plans of the building works of which were first submitted to the Building Authority for his approval on or before 1 March 1987; or which was constructed on or before 1 March 1987 where no plans of the building works of the building were submitted to the Building Authority for approval, shall also provide or improve with sufficient means of escape, means of access to facilitate fire fighting and rescue, and other proper facilities to inhibit the spread of fire and to ensure structural integrity of the property according to Chapter 572 Fire Safety (Buildings) Ordinance.

Fire Safety
(Buildings)
Ordinance
Chapter 572

5.2.4 *Mechanical Ventilation and Air-conditioning (MVAC)*

General

Central ventilation and air-conditioning systems are seldom installed in residential and industrial properties. The systems for these types of property are usually window-type room coolers or split-type air-conditioning units. These installations are usually maintained under a one-year guarantee with a subsequent yearly maintenance agreement with the supplier. The routine duties carried out by the on-site maintenance team for this kind of equipment may include cleaning and replacement of filters, checking of the electricity power supply and the structural condition of the mounting racks, etc.

For MVAC systems installed in commercial properties, such as offices and shopping centres, more comprehensive maintenance planning will be required than those in residential premises. MVAC systems are usually classified into two major parts for maintenance planning: namely, the water-side and the air-side equipment.

Components of MVAC Systems

The water-side equipment usually refers to the refrigeration plant including compressors, pumps, cooling plant and the associated installations. These components are usually maintained by the original supplier of the equipment under a maintenance agreement to ensure spare parts readily available. The on-site maintenance staff shall monitor the performance of the maintenance services contractor by requesting for a routine report on the performance of the equipment. The report shall include data, such as temperature, noise level, vibration level and energy efficiency, which shall then be co-related to the manufacturers' recommended operation range.

The air-side equipment refers to the fan-coil units, variable air volume boxes, air handling units, etc. The equipment can be either serviced by in-house engineers or technicians or through a maintenance agreement with a service contractor.

Maintenance Requirements

The repair of electrical installations of MVAC systems shall be carried out by a Registered Electrical Contractor. The air-filters of MVAC systems must be cleaned or replaced regularly to avoid blocked filters, resulting in reduced airflow and deteriorating system performance.

Relevant
Ordinance

Whenever there is any major overhaul of a MVAC system which requires the temporary shut-down of the air-conditioning supply, it shall be planned and preferably implemented in winter season when the demand of air-conditioning is minimal. Every effort shall be made to repair a MVAC system outside normal business hours to avoid causing interruption to commercial occupiers.

To obtain the best indoor air quality within the internal environment of the property, routine checking and cleaning of the supply air duct and ventilation fans are required. The checking of exhaust and air-intake condition shall also be conducted to avoid short-circuit of polluted air.

All openings formed on fire-rated partitions shall be properly sealed with fire resistant material. As a matter of fire safety, proper fire dampers shall be installed in the air ducts passing between two separate fire compartments, which shall be tested and inspected by Registered Ventilation Contractor at least once a year and a Ventilation Certificate shall be issued to confirm that the fire dampers are being operated in order.

Some suspended ceiling voids are performed as return air plenum, and thus care must be taken during the erection of full height partitions to avoid causing obstruction of return air flow.

5.2.5 *Lift and Escalator*

The property manager shall appoint a Registered Lift Contractor to carry out the following lift and escalator maintenance works:

Lift & Escalator
(Safety)
Ordinance

- (a) Inspect, clean, oil and adjust the lift and escalator once a month;
- (b) Test and examine safety equipment once a year; and
- (c) Test the full load, overload device and the brake once every 5 years

In addition, the property manager shall monitor the contractor to ensure that the lifts and escalators meet current safety standards, and performing the following duties:

- (i) Apply permits periodically for the use and operation of lifts and escalators from the EMSD;
- (ii) Keep and update the record of work for EMSD inspection;
- (iii) Ensure a good and safe environment and necessary equipment be provided to the Registered Lift Contractor for carrying out maintenance works; and
- (iv) Report any incidents immediately in writing to EMSD, the Registered Lift Contractor and the insurance company.

Relevant
Ordinance

5.2.6 *Gas Installation*

The property manager shall appoint a Registered Gas Contractor or Installer to carry out repair and maintenance works of gas installations to ensure safe operation of the gas supply system in accordance with the Gas Safety Ordinance. The following preventive measures shall be taken:

Gas Safety
Ordinance

- (a) The gas supply system shall be checked periodically by the gas supply company;
- (b) Gas installations shall be inspected at least once every year;
- (c) Avoid storing excessive stock of liquefied petroleum gas (LPG) cylinders;
- (d) Notify the gas supply company to collect the LPG cylinders found in common area; and
- (e) Avoid igniting any fire when there is a leakage of town gas or LPG. Switch off the main gas supply and ensure free flow of natural air immediately in case of any doubt.

5.2.7 *Plumbing and Drainage System*

A water supply system is usually an integration of direct supply, indirect supply and sump pump supply system. Direct supply denotes that water is conveyed directly from public main to households by means of hydraulic pressure. Indirect supply denotes that a water pump is used to draw water from a ground level water tank to a rooftop storage tank and then water is conveyed to household through a network of down-feed sub-main. Sump and pump supply denotes that water is conveyed to the receiving end by fitting a pressure pump to the supply.

All integral parts of the water supply system, which comprises pumps, risers, storage tanks, and automatic float switches, etc., shall be regularly checked and properly maintained. All water storage tanks shall be cleaned at regular intervals to avoid contamination of water.

Any alteration to the plumbing system shall seek approval from Water Authority and the plumbing works have to be carried out by licensed plumbers who have registered with Water Supplies Department.

Drainage systems are usually classified into the rainwater system and sewage system. Drain pipes shall by no means be connected to different systems, e.g. sewage discharged from sinks shall not be conveyed to any rainwater pipe. The integral part comprises drain pipes, anti-siphonage traps and manholes.

Drainage outlets shall be cleared of rubbish and fitted with grating to prevent large particles from blocking the drain pipes. Manholes shall be checked regularly and any blockage shall be cleared instantly.

5.2.8 CCTV

The storage period of CCTV recorded tape shall be kept for at least one week.

Proper procedures shall be formulated as follows:

- (a) Label the recording tape;
- (b) Designate the time to changed tape everyday; and
- (c) Storage of used tape to avoid unauthorised removal.

The property manager shall check randomly the recorded tapes to identify any special activities being recorded and the quality of the tapes to determine the time for replacement.

A proper borrowing system shall be formulated with proper record of borrowers and dates of borrowing. The property manager shall designate the personnel whom are authorised to borrow the tape and whom shall sign for approval.

5.2.9 Calibration of Equipment

There are various parameters of the environment that need to be monitored regularly to avoid complaints from the residents or occupiers; and to comply with the statutory requirements. Typical examples are the noise level, carbon dioxide content and the like. Besides, the performance of property facilities shall be regularly checked to ensure they are operated effectively, efficiently and safely. Typical measurement includes the output of air-conditioning systems, electric current of cables and electricity appliances, etc. Hence, the property manager shall use various types of equipment, such as noise level meters and amp meters to measure the aforesaid environmental parameters and facilities performance.

The purpose of calibration is to ensure measurement equipment being used in a controlled and prescribed manner so as to maintain their accuracy during measurement.

Simple equipment may be calibrated internally by in-house technicians or engineers whereas sophisticated equipment shall be calibrated by external accredited laboratories. Equipment which cannot be calibrated or unable to pass the test of accuracy shall be discarded. Otherwise, a false representation of the environment or facilities performance may be resulted.

The calibration test reports, last calibration dates and scheduled calibration dates shall be properly recorded in an equipment register. A designated staff shall be assigned to upkeep the register and to put forward recommendation if a piece of equipment fails to pass any required calibration tests. The designated staff shall also check regularly whether there is any obvious physical mechanical damage to the equipment.

5.3 Supervision of Works

Maintenance staff shall work jointly with the management staff to ensure works to be carried out according to the planned schedule and to minimize suspension of services and disturbance caused to residents or occupiers. Management staff shall be invited to attend joint site meeting with the contractors, especially on major repair or improvement projects, so that various opinions and options can be considered and consolidated to ensure smooth implementation of the projects.

If the works cause any nuisance, affect the operation of the residents or occupier, or involve suspension of services, notice shall be issued to residents/occupiers well in advance. If there are a large number of residents or occupiers that issuance of a notice to individual persons becomes impractical or uneconomical, such notices shall be posted on notice boards at prominent locations of the property.

Due consideration shall be made to carry out the works during night time or public holidays if the works will cause serious inconvenience or interruption to the residents or occupiers.

Proper warning signs, barriers and the like shall be exhibited to alert the attention of the residents or occupiers on the works in progress. If the work place is easily accessible and the works are likely to cause danger to the public, consideration shall be given to cordon off or completely hoard off the work area.

Proper supervision shall be exercised by maintenance staff to monitor the contractors' performance. Due care shall be given to proper storage of building material, flammable substances, plant and equipment, and debris arising from the works to avoid causing disturbance and danger to the residents, occupiers and the public.

Security guards and caretakers shall be notified of the works so that, as a second tier of control, they can keep the performance and work behaviour of the contractor under surveillance during their daily patrol.

Maintenance staff shall inspect work areas regularly to ensure work progress is in line with the planned schedule and the work areas are kept in a clean and tidy condition.

Upon work completion, management staff shall check the work areas to ensure that everything resumes to its normal condition.

5.4 Performance Appraisal

5.4.1 *Monitoring Staff Performance*

Staff performance shall be measured in terms of quantity and quality of maintenance works performed. Fault records and complaints from occupiers may also be used as a measuring yardstick.

In-house staff may be appraised periodically by means of the standard internal staff appraisal system.

5.4.2 *Monitoring Contractor Performance*

The maintenance contractors' performance shall be continuously monitored and evaluated to ensure the output delivered meets the requirements already set out. Assessment can be made in respect of quality, progress, cost, response to emergency and the like.

5.4.3 *Monitoring Progress of Work*

Progress of work shall be assessed against milestones agreed with contractors before the commencement of works. Alternatively, it can be assessed through checking the issuing dates of work orders against their completion dates and co-relating the actual progress to the original schedule.

5.4.4 *Quality Assessment*

From the management point of view, assessment on the quality of maintenance works performed shall be made based on the following:

- (a) Assessment on workmanship and effectiveness;
- (b) Number of breakdowns in services installations;
- (c) Number of complaints from the customers;
- (d) Rate of consumption of maintenance resources; and
- (e) Progress of work

5.5 Process of Repair/ Works Order

5.5.1 *Monitoring Expenditure*

Prior to issuance of any works order especially for non-recurrent capital maintenance works, it is necessary to check and ensure the planned budget will not be exceeded and the works will be executed according to the planned programme.

An internal authorization system shall be set up and approval from senior management is required for major renovation or improvement works, especially those of a non-recurrent nature. Since front line staff may easily be obsessed by pressure of urgency and residents' opinions, such system is necessary to enable objective decisions on maintenance expenditure and programme to be made.

5.5.2 *Internal Repair Order*

Minor day-to-day repairs and maintenance works may be carried out by in-house technicians who are more familiar with the local environment and likely to provide a quicker response. An internal repair order control system shall be established to monitor the expenditure on minor works and to ensure effective utilization of limited resources.

The property manager shall designate specific on-site staff who are authorised to issue repair orders to the maintenance team. Every repair order issued shall be recorded in a proper registration system to avoid duplication and to facilitate future retrieval. Completed repair orders shall be returned by the maintenance team to the management team so that the authorised officer may record these orders to the order registration system. The issuing officer shall regularly check and review the work progress, and reminders may be sent to the maintenance team at a pre-determined interval.

5.5.3 *External Works Order*

For the purpose of risk management, an internal list of approved contractors shall be established and administered so that only capable and competent contractors will be engaged in providing maintenance service. The listing system enables continuous monitoring and assessment of the approved contractors' performance.

The approved lists may be classified into trades, such as general building works, electrical works and fire services works so that appropriate and competent contractors will be selected for various types of works. The contractors on the lists may be further subdivided into various banding or grading according to their financial capability and available resources. Contractors in different banding or grading are eligible to tender for contracts with a value of up to a certain pre-determined limit.

Newly admitted contractors are usually given a probationary status and subject to additional tender restriction on the number of contracts and value of works. Their performance shall be closely monitored and they may be given a confirmed status only after they have demonstrated their ability on a number of specific jobs with the property manager.

Common criteria for prequalification or registration of contractors are their company profile, past history, job reference, reputation, relevant approved licence, resources and financial capability.

The performance of the approved contractors shall be reviewed regularly. Poor performers shall either be warned or expunged from the approved lists depending on the seriousness of their deficiencies. Staff shall be reminded not to engage any contractors not on the lists.

For the invitation of quotation and tendering procedures, please refer to Section 7.0.

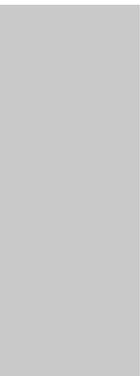
Works orders are normally issued to the most competitive contractor after quotation or tender invitation except under special circumstances. In the latter case, approval from senior management shall be sought and the final decision with justification shall be recorded on file. A copy of the works orders and the quotations or tenders shall always be forwarded to the Accounts Department for reference.

Relevant Ordinance

Details of all works orders issued are to be recorded in a works order register for future retrieval and follow-up action.

The staff designated to supervise the works shall be familiarised with the specifications and conditions as stipulated in the works orders and quotations or tenders. Such conditions may include time of completion, deposit or interim payment terms, British Standards and the like, which either the contractor or the property manager needs to comply with.





6.0

Financial Management



6.0 Financial Management**6.1 Budgeting Process**

A management budget provides the owners with a general idea of the income and expenditure forecast for the proper management of the common parts in the coming year. Through the budget, the owners can monitor and control the performance and progress of the planned activities by regularly comparing the actual expenditure to the targeted expenditure and taking corrective action based on the comparison.

A management budget shall be prepared once every year listing the estimated expenditure and income receivable. It shall preferably be prepared at least two to three months prior to the commencement of the budget year to allow sufficient time for consultation and approval by the property owners. When preparing the budget, the property manager shall review all existing income, recurrent and non-recurrent expenditure. Information, such as the proposed items to be added and deleted in the coming year, and various fee adjustments arising from the estimated inflation, shall also be included.

Management budgets shall cover, but not limited to, the following expenditure:

- (a) Salary and other fringe benefits of the on-site management and maintenance staff;
- (b) Maintenance and improvement works programme of the common areas and facilities;
- (c) Cleansing service charges;
- (d) Security service charges;
- (e) Water and electricity charges of the common areas and facilities;
- (f) Fire and public liability insurance;
- (g) Rates, telephone charges, stationery and miscellaneous;
- (h) Expenses of the management office;
- (i) Maintenance of lifts and escalators, where applicable;
- (j) Landscaping and gardening;
- (k) Manager's remuneration if a property management company is employed;
- (l) Legal and professional charges, such as audit fees;
- (m) Promotion and festive programme;
- (n) Inflation and interest rate fluctuation; and
- (o) Contingency fund for the purpose of settling unexpected or emergency expenses.

Relevant
Ordinance
Schedule 5 of
Building
Management
Ordinance

If there is an Owners' Corporation (**OC**), the management budget shall be prepared by the Management Committee (**MC**) and/or Property Manager, and be endorsed by the property owners at the annual general meeting according to the Building Management Ordinance (**BMO**).

Apart from preparing an annual management budget, it would be prudent that the property manager shall also prepare a five-year forecast which is the prediction of relevant future assumptions and requirements affecting the property and its environment towards the fulfillment of goals and objectives in the long term. It gives a logical and comprehensive means of providing predicted results that can be achieved within the anticipated constraints and resources. The five-year forecast, being a tool for strategic and policy setting, will serve the following objectives:

- (a) Reduce risk of potential loss arising from the inefficient or ineffective use of resources; and
- (b) Identify potential areas that the property manager may be involved to cope with changes in the environment.
- (c) Necessary funding, such as sinking fund and improvement fund, etc. could be identified in advance of the carrying out of the work without having to resort to individual's ad-hoc contribution.

6.2 Cost Control

The property manager shall execute proper budgetary control by checking regularly the routine expenses against the budget prorated on the regular account statement to avoid deficit. Remedial action shall be taken instantly if any expenses item is found over-budget. During the procurement of materials or services, the property manager shall obtain more than one quotation for getting the most competitive price as far as practicable. For proper procurement procedures, please refer to Chapter 7.0 of this Guide. If the property account consists of capital improvement fund or contingency fund, the property manager shall ensure the funding will only be used according to the intended purpose. As a general guideline, these funds are seldom used on a routine and recurrent nature.

If there are no such funds established, the property manager shall discuss with the property owner to set up the necessary funds to meet future expenditures which are of a capital and non-recurrent nature. This arrangement will minimize the effect on general management account when unexpected large-scale repairs or improvements are implemented.

It is recommended to adopt a petty cash system for purchases of a minor nature. Under the system, an authorised holder (usually the on-site property manager) is entrusted with a reasonable sum of money to cover estimated expenses over a period of time. Any disbursement will be reimbursed through the Head Office or the treasurer of the OC on presentation of supporting vouchers. The recoupment together with the balance of the money withheld will ensure the petty cash amount is maintained at its original level.

The petty cash holder shall produce an account statement on a monthly or regular basis. The petty cash account must be balanced upon the change of holders. Any disbursement or recoupment shall be duly recorded.

Except for controlling expenses, the property manager shall also exercise control on property income. Prompt actions shall be taken to recover all outstanding management fees, licence fees, rental or other incomes. The property manager shall also consider the opportunity to generate more sundry income, such as revision of hourly carpark charges, organising exhibition activities on arcade atriums.

6.3 Financial Statements

It is required that proper records of account shall be maintained and a summary of income and expenditure shall be prepared at least once every three months, and displayed in a prominent place of the property. The summary shall include the balance at the start and at the end of each period, certified by authorised personnel.

Schedule 6 of
Building
Management
Ordinance

In addition, at the end of each year, an income and expenditure account and a balance sheet shall be prepared, audited and certified by an accountant. This account shall also be presented at the property owners' annual general meeting. Each income and expenditure account and balance sheet must contain details about the use of the contingency fund.

If there is an OC, the financial statements of the OC, i.e., the income and expenditure account and the balance sheet, are signed by the chairman and the secretary or the treasurer of the MC. The designated auditor shall be approved by the OC in a resolution passed at a general meeting. If the number of unit in the property exceeds 50, the auditor appointed shall be a Certified Public Accountant (**CPA**) (Practising), a CPA firm or CPA Corporate Practice.

Relevant
Ordinance

Except for accounts auditing, the auditor shall not be involved in the financial or accounting matters of property management. The auditor shall be empowered to have access to each and every accounting document. He/she shall check whether the account entries are official records; entries are precise and promptly made; statement of balances is reconcilable with the content of the account entries and/or the vouchers concerned; and the balances of various accounts are correct. Furthermore, he/she shall sign and date the audited accounts to certify their correctness.

Section 27 of
Building
Management
Ordinance

6.4 Receipt and Payment

It is required that official receipts shall be issued upon collection of any payments. Receipts must be serially numbered and signed by the payee when payments have been received. It is advisable to deposit all money collected, especially cash, without delay into an interest-bearing account specifically opened for the property.

The property manager or the treasurer of the OC shall maintain an interest-bearing account exclusively for uses related to management of the property. At least three persons shall be authorised to be the signatory of the bank account. The bank shall be instructed that not less than two persons shall sign on any valid cheques or saving withdrawal slips. All bank statements, cheque books and passbooks shall be properly kept by the property manager or the treasurer.

A proper cash book and record of income and expenditure shall be maintained. The cash book balances shall be checked every month. Receipts and papers referred to in the cash book shall be filed in proper order, and kept for at least six years. All receipts and invoices shall be endorsed by proper authorised signatory.

Schedule 6 of
Building
Management
Ordinance

6.5 Outstanding Management Fees

Defaults on management fees payments are often encountered in property management. The common causes are:

- (a) Uncooperative residents;
- (b) New residents are unwilling to pay the outstanding fees of their predecessor; and
- (c) Some commercial occupiers on the ground floor refuse to pay on the basis that they have not enjoyed the same level of management services as the other occupiers on the upper floors.

Relevant
Ordinance

Small Claims
Tribunal
Ordinance

Should the residents or occupiers fail to pay management fees despite being urged to do so, the property manager may demand payment through a solicitor. If there is any doubt about the responsibility for the fees in dispute, it is advisable to check the DMC and the relevant legislations or alternatively to appoint and instruct a solicitor to study the issue.

Wherever appropriate, the property manager may register with the Land Registry a charge on the properties of the indebted parties so that any future prospective purchasers are able to know the amount of outstanding fees owed.

If the outstanding amounts are within the jurisdiction of the Small Claims Tribunal, application may be made to the Small Claims Tribunal for the recovery of the fees.

6.6 Change of Property Manager

When there is a change of property manager upon the expiry of a management contract, the outgoing property manager shall check all money and accounting entries before handing them over to the incoming property manager or to the treasurer of the OC.

The outgoing property manager shall also prepare a statement of balances as at the very last day of the management term, setting out the income and expenditure, and assets of the property. For easy verification, bank statements should be included as far as practicable.

It is recommended that an account audit shall be conducted up to the date of the termination by the outgoing property manager so that the balance of the cash fund and other money held can be transferred to the incoming property manager according to the audit report.

The incoming property manager shall verify the statement prepared by the outgoing property manager before taking over the records.

Any contracts signed by the outgoing property manager with service contractors shall also be formally terminated in line with the date of termination of management. Typical examples of these contracts are building maintenance contracts, cleansing service contract, security service contract and in-house staff appointments.

Relevant Ordinance

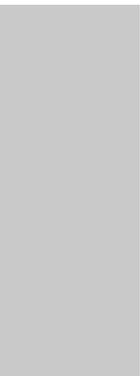
If the insurance policies of the property are being procured and signed by the outgoing property manager, the information shall be communicated to the incoming Property Manager so that proper transfer of insurance policy can be arranged.

If there is any licence agreement being signed by the outgoing property manager, e.g. mobile phone service, showcase, etc., similar notice of termination shall also be served by the outgoing property manager.

To enable prompt finalization of account and handover to incoming property manager, any outstanding payments owed to contractors, staff and the like shall be paid as early as possible.

Furthermore, utilities companies and relevant government departments shall be formally notified on the change of consumership as at the date of termination regarding electricity, water, telephone and the like.

Lastly, any inventory stock held by the outgoing property manager shall be properly registered on a check-list for handing over to the incoming property manager.



7.0

Procurement and Tendering Procedures



7.0 Procurement and Tendering Procedures

7.1 Introduction

Tendering is an open and fair exercise aiming at achieving best value for money, and is also an effective measure to prevent corruption.

The contract is a legal binding document made between two or more parties. It contains offer, acceptance and consideration.

7.2 Contractor and Supplier Lists

To ensure tenders are only sought from contractors and suppliers who have the requisite capability and resources to provide the intended services or goods, proper contractor or supplier lists shall be drawn up. For more details about the establishment of such lists, please refer to Section 5.5.3.

To ensure fair competition, the criteria for inclusion to the lists and invitation of contractors or suppliers to express interest for inclusion shall be made open. The returned proposals shall be analyzed and the capable contractors or suppliers shall be selected according to their past experience to supply similar nature of goods and services, financial capability, resources available and the like.

7.3 Tender Documents

The scope and details of the services or products required shall be clearly defined before tenders are invited. The tender documents shall be drawn per recognized procurement principles and practices aiming to achieve the best value of money under fair competition. In addition, the specifications shall be worded in easily comprehensive general terms based on the functional and performance characteristics of the services or products required. No particular trade mark, brand name, patent, specific origin, producer or service provider shall be specified, unless there is no sufficiently precise or intelligible way of describing such procurement requirements. If that is the case, words such as "or equivalent" shall be adopted. Where standards, codes or technological guidelines are referred to, international standards shall be used where practicable.

Relevant Ordinance

TA proper tender document in the form of Bills of Quantities shall include sections of preliminary, preamble, form of tender, general specifications, particular specifications, bills of different trades with or without quantities, summary of tender, drawings, appendices etc.; which shall included descriptions on the types of goods, work items, materials and standards, and supplementary conditions, such as insurance coverage, date of completion, maintenance period, etc. Alternatively, simple form like "drawing plus specification" may be adopted, dependent upon the stakeholders' requirements.

It shall also specify the details for submission of tender, such as place and closing time for submission. A record of tenders issued shall also be kept. The tenderers may be required to provide additional information on their past experience and financial status for reference.

7.4 Tender Invitation

It is suggested that the guidelines as set out in the Code of Practice issued under the Building Management Ordinance (BMO) shall be adopted as far as practicable when inviting suppliers or contractors in a tender exercise.

Code of Practice for Building Management and Maintenance

For a purchase of goods or services at amount exceeding or is likely to exceed HK\$200,000, tender exercise is required.

Section 20A of BMO

Purchase/Works Price \$10,000.00 or under	Minimum number of quotations or tenders invited to be agreed between property manager & property owner.
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Over \$10,000.00 but not exceeding \$200,000.00	Three
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Over \$200,000.00	Five
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If it is a tendering exercise for major repair or improvement works, the property manager shall consider appointing an Authorised Person to co-ordinate such works. A Registered Contractor under the Buildings Ordinance or other relevant Ordinances shall be employed to carry out such works.

Section 4 of Buildings Ordinance

Relevant
Ordinance

In any circumstances that the required numbers of quotation or tender cannot be obtained, justifications shall be submitted to senior management for approval before placing an order and recorded for future reference.

7.5 Collection and Opening of Tenders

A proper tender box shall be prepared for the collection of tenders submitted by tenderers. The tender box shall be double-locked, and its keys shall be separately kept by the property manager and property owners' representatives. To avoid postal errors, it is a good practice to provide the tenderers with self-addressed envelopes. Tenders shall be put in sealed envelopes and dropped into the tender box before the closing time. Late submissions shall not be accepted.

All tenders shall be opened at the same time in the presence of at least three persons, including representatives from the property manager and the property owners, who shall sign and date the tender documents on the spot. If there is an Owners' Corporation, at least three members of the Management Committee shall be presented. All the tender prices offered should be recorded on a schedule. All tender documents shall be kept in safe custody pending action by either the property manager or the authorised property owners' representatives.

Guide of Practice
For Building
Management and
Maintenance

7.6 Award of Tenders

Generally, if the tender is prepared correctly while all tenderers submit the tender in a decent manner, the lowest tender shall be accepted unless otherwise with good reasons to accept another tender at a higher price. If that is the case, such reasons shall be submitted to the senior management for approval before placing an order and recorded for future reference.

If there is an Owners' Corporation, tenders shall be submitted to the Management Committee for acceptance. Tender of a value exceeding 20% of the property's annual budget shall be submitted to a general meeting of the property owners for resolution.

Section 20A of
BMO

7.7 Other Administrative Procedures

All tenders and related documents shall be kept for at least six years and made available for future inspection.

Relevant
Ordinance

Oral quotations or direct purchases can be used if the value does not exceed the amount laid down in the Code of Practice of the BMO. A record of the quotations must be kept for future reference and as a proof of their accuracy.

If there is an Owners' Corporation and its member has any pecuniary interest in the procurement, he/she shall declare interests according to the Code of Practice of the BMO to avoid conflict of interest.

7.8 Purchasing and Inventory Control

The property manager shall set up a proper internal purchasing and inventory control system on each property under management. Only authorised staff are allowed to issue purchase orders to suppliers and control of inventory stock.

The authorised staff shall seek appropriate approval from the senior managers and/or directors with respective authorisation limits. The authorised staff shall verify that the goods or materials supplied are in the right quantity and quality. These goods and materials shall be stored inside a proper storage area. Any stock-in and stock-out shall be properly recorded in a store registration system. Records of the stock being used shall be delineated in the registration system, so as to locate the stock usage for future reference.

Any imminent shortage shall be signaled by means of a pre-determined stock limit and the authorised staff will need to replenish the stock promptly.

Periodic stock checking may be done by another independent department, such as the administration department, to identify any discrepancy between the inventory record and the actual stock kept on site.

8.0

Emergency

Procedures

8.0 Emergency Procedures

8.1 General Procedures

Once the on-site property management staffs perceive that there is an emergency incident, they shall immediately attend to the scene to find out what has happened.

If the ongoing condition is safe and controllable condition, the on-site management staff shall try to handle the case in the first instance and carry out remedial actions accordingly by considering the actual situation and available resources.

If the ongoing condition cannot be kept under control or the emergency is liable to cause imminent danger to the residents or occupiers, the Police Department, Fire Services Department or other relevant government departments shall be notified immediately for assistance.

Public safety of the public shall always be on top priority among all other issues.

The maintenance staff shall be informed promptly to make safe the situation. Relevant contractors shall be instructed to carry out necessary follow-up actions.

An incident report shall be prepared to record the details of an emergency incident, including the parties involved and photos taking for future reference. The concerned insurance company shall be informed if there may be damages covered by the insurance policy.

8.2 Handling of Emergency Calls

It is a good practice for a property management company to set up a 24-hour control centre to receive emergency calls from residents or occupiers outside normal office hours. The particulars of the emergency calls including details of complainants shall be recorded for determining the most appropriate course of action.

Relevant
Ordinance

The control centre shall be equipped with an emergency handling manual and contact list. The manual shall briefly set out how the duty officer should follow in case of emergency calls received. The process may be described in the form of a flow chart listing the officer (including engineers or surveyors), managers, directors or service contractors that may be contacted in the hierarchy. Hence, the officers, managers, or directors of the management company shall preferably be equipped with at least a pager or mobile phone. The control centre shall have all these phone numbers readily available including their 24-hour contact if necessary. Should all in-house officer, engineer, surveyor, manager or director be unable to be contacted; the procedure shall allow the control centre to contact an external contractor directly for assistance. The manual shall also clearly set out the maximum time allowed to contact the next officer in the hierarchy, if the previous one be unable to be contacted.

The contact list shall be updated at regular intervals to ensure deleting those left and adding those newly joined organisation.

The officer, manager or director being contacted shall decide whether in-house technician, external contractor or he/she shall attend the emergency.

The time of receiving the complaint calls, details of complainant and incidents, call attendance details, response time and arrival time of attendance shall be registered in a proper Emergency Call Record. The property manager shall scrutinize this record regularly to enable the organisation's performance pledge and good customer services have been achieved.

The control centre shall report the incident to the Police or Fire Services Department immediately if the emergency involves any of the following matters.

- (a) Outbreak of fire;
- (b) Personal injury;
- (c) Malicious damage of property;
- (d) Burglary, crime or illegal activities;
- (e) Bomb threat;
- (f) Landslide; and
- (g) Lift breakdown with passengers being trapped.

8.3 Damage to Facilities

Whenever damages to property common facilities are found, every effort shall be exercised to identify and locate the wrongdoers. If such persons were not found, the property manager shall consider reporting the incident to the Police for investigation. Insurance company shall also be informed if the damages were covered by the property's insurance policy so that compensation can be claimed. If the wrongdoers are identified they shall be requested to sign for an undertaking for compensation. In case the identified wrongdoers refuse to sign the undertaking, the on-site management staff shall consider reporting the case to the police for investigation and follow up action.

Maintenance staff shall immediately rectify the damages if such could cause danger to the residents or occupiers; or lead to suspension of services. Record photos shall be taken for future reference.

As a general guideline, an Incident Report listing the following information shall preferably be prepared for future reference regardless of the cause or consequence of the incident.

- (a) Name, identity, address and contact of wrongdoer who causes the damages.
- (b) Name, address and contact of the wrongdoer, employer or company if the wrongdoer is carrying out his/her duty that causes the damage, e.g. vehicle driver.
- (c) Name and address of wrongdoer's insurance company, if any, relating to his/her third party liability.
- (d) Information of vehicle causing the damage.
- (e) Record photos of the damage.
- (f) Police report book reference, if any.
- (g) Undertaking signed by the wrongdoers, if any.

8.4 Burglary, Crime and Illegal Activities

Immediately when the management office or security control room received report of burglary, crime or other illegal activities, the security guard and/or caretakers shall adopt the following procedures.

- (a) Record the particulars of the complainant clearly including the name, contact phone number and location of incident.

Relevant
Ordinance

- (b) Arrange security guards or caretakers to attend the scene for investigation. If suspects or signs of burglary, crime, etc. were found, it should be reported to the Police immediately.
- (c) The security guard or caretaker shall remain at the scene until the police have arrived. The purpose is to ensure that no suspect is able to leave the scene, no other visitor may enter the scene and nothing will be removed or damaged until the police are able to collect fingerprint. After the arrival of the Police, security guards or caretakers should provide particulars of those people whom insisted to leave the property.
- (d) All lost items shall be recorded. Photos shall be taken from the scene.
- (e) Prepare an incident report with particulars including the time, venue, persons involved and items lost or damaged; and submit the report to the property manager. The Police's report file reference shall also be recorded.
- (f) Inform insurance company where necessary.
- (g) Issue notice to alert the other residents or occupants to avoid future recurrence.
- (h) Always bear in mind the safety of the residents, occupiers and the public which should be at the top priority.

8.5 Fire Prevention

- (a) Apart from ensuring that the fire services installations are in properly operating state, the property manager shall also ensure:
 - (i) The means of escape, staircases and rooftops of the property shall be clear of obstruction at all times.
 - (ii) No fuel in excess of the statutory permitted quantity and no dangerous items shall be stored in the property.
 - (iii) Only locks which can be readily be opened from within the property without the use of a key should be installed at the exit doors or rooftop to enable instant escape in case of fire.

Regulation 14 &
Regulation 99 of
Dangerous Goods
(General)
Regulations
Chapter 295B

Relevant
Ordinance

- (b) When a fire breaks out, the property manager shall immediately dial 999 or notify the nearest fire station. If the fire is beyond control, the property manager's staff shall notify and direct the occupiers of the property to escape as soon as possible.

Do not attempt to put out the fire by using the various fire services installations except under safety circumstances.

Do not use the lift as an escaping means.

Ensure all smoke doors are close after use to limit the spread of fire, smoke and heat.

Once the security control room or management office is notified there is an outbreak of fire, the exact location of the incident shall be made clear from the person reporting the incident so that fireman and police officers can be directed to the scene promptly and correctly.

The security guard or caretaker shall prohibit people from returning to the fire scene except the firemen.

The fire escape route shall be kept clear to allow easy escape of people. After the incident, the cleaning contractor shall be informed to clear up the scene including removal of water. Record photos and incident report shall be prepared and insurance company shall be informed where appropriate.

Regulation 14 of
Fire Services (Fire
Hazard
Abatement)
Regulation
Chapter 95F

- (c) Ensure all directory signages leading people to evacuate to the fire escape route shall be in good order at all times.

Issue notice to all residents or occupiers advising the location and proper use of fire escape route.

Eliminate potential fire hazard by means of education to residents or occupiers and to impose appropriate control procedures over highly hazardous practices, e.g. paper burning in religious rituals.

Regular checking and cleaning of electrical switchboards to avoid over loading and accidental ignition of flammable substances.

Regulation 20 of
Electricity (Wiring)
Regulations
Chapter 406E

Relevant
Ordinance

Fire drill shall be arranged on a regular basis to educate the residents or occupiers the awareness of fire hazard as well as the location of escape route. The property manager is recommended to organise fire drill once every year.

- (d) Provide proper briefing and training for on-site management staff in order to acquaint them with the necessary knowledge on using fire fighting equipment and familiarise with emergency handling procedures.
- (e) Ensure that sufficient insurance cover against fire perils is effected for the property.

Building
Management
(Amendment)
Ordinance

Review insurance policy at least once a year to decide whether sufficient coverage is effected.

Advise residents or occupiers to effect similar insurance coverage to their own assets.

8.6 Typhoon, Rainstorm and Flooding

8.6.1 *Pre-Activity Planning*

Typhoon Emergency Teams (TET) should be set up before the typhoon season, i.e. in May each year. It is suggested that at least two teams shall be set up for each property so that a second team can be mobilized to support the first team in times of prolonged typhoon periods.

Each team shall be headed by a senior management officer as leader and shall be consisted of both maintenance and management staff. Maintenance staff are able to attend emergency repair and facilities breakdowns while management staff is able to handle residents/occupiers enquiries and administrative matters.

The purpose of setting up TET is to ensure the property is properly protected from damages when being threatened by any approaching typhoon. Besides, it gives a more secure feeling to the residents or occupiers by arranging management staff on duty so that assistance can be provided when needed.

The TET should be equipped with all necessary facilities such as raincoats, safety helmets, safety boots, torches, portable submersible pumps, plywood boards, sandbags, communication equipment and other hand held tools.

The TET should possess an emergency manual and emergency contact list, which include the contact of the service contractors and support team members of the Head Office.

The on-site property manager of each property should be responsible for keeping close vigilance on the movement of any approaching typhoon. The updated status of any typhoon signal should be posted at prominent location, such as ground floor lift lobby of all properties to alert to the residents or occupiers.

8.6.2 *During Typhoon*

It would be prudent to take the following steps when typhoon signal no.3 is hoisted.

- (a) Check and clean all drainage.
- (b) Check all emergency generators.
- (c) Ensure all movable articles, such as planter pots, are secured.
- (d) Ensure the contractor, if any, have properly secured their loose articles, such as materials and tools, and the scaffolding.
- (e) Stop all high level and external works.
- (f) Check all windows and doors are properly closed or locked.
- (g) Stick all glass panels, which are likely to be affected by typhoon, such as those at ground floor entrance lobby with adhesive tape.
- (h) The TET leader shall closely monitor the latest movement of the approaching typhoon and keep in touch with other team members, so that team members all can report duty immediately when signal no.8 is hoisted especially outside normal office hours.

When typhoon signal no.8 or higher is hoisted, the TET should take the following steps:

- (a) All TET members shall report duty instantly.
- (b) All team members shall stay inside the management office to attend to emergency call and pay attention to the latest movement of the typhoon.
- (c) Once emergency call is received, the team leader shall arrange members to attend to the scene. Do not try to rectify a highly hazardous damage, yet to make safe the current situation as far as practicable. Team members shall only carry out works with sufficient safety equipment and under definite safety, especially for the outdoor works.

Relevant
Ordinance

- (d) If practicable, the TET shall try to record all damaged items before being covered. Record photos shall be taken on those items.

8.6.3 After Typhoon

It would be prudent to take the following action after the typhoon signal is lowered.

- (a) Carry out general inspection of the property.
- (b) Prepare Typhoon Damage Report for property owners' organisation. Record photos shall be attached as far as practicable.
- (c) Prepare insurance claims report according to the nature and scope of insurance policy. Record photos shall be attached where available.
- (d) Carry out all necessary repairs.
- (e) Organise cleaning up works and removal of debris at once.

8.7 Gas Leakage

The gas supplier shall be informed instantly whenever there are any suspects of gas leakage in the property. The Police and Fire Services Department should also be informed about an explosion and people injured or unconscious.

Security or caretaking staff shall attend to the scene immediately and assist to evacuate residents or occupiers in an orderly manner. It would be prudent that the following steps shall be taken when there is gas smell in the vicinity of the scene.

- (a) Do not try to operate any electric switches (e.g. door bells, light switch, etc.) no matter to turn on or off.
- (b) Do not dial telephone and/or using walkie-talkie.
- (c) All naked flames should be extinguished.
- (d) Do not use matches.
- (e) Open all windows and doors to let fresh air flow in.
- (f) Turn off the gas supply valve at the gas meter.
- (g) Do not try to take photos especially those with or flash light.

Incident Report shall be prepared to record the particulars of the incidents including time, personnel involved, location of the scene and any Police report book number. Record photos shall be taken especially when there are any damaged items or injuries.

Relevant
Ordinance

Insurance company shall be informed for insurance claims matters.

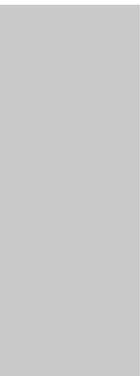
Before the main gas supply is resumed, care must be taken to ensure that the individual gas appliances are completely turned off.

Only the gas company or registered gas contractors shall be allowed to carry out repairs on the gas supply system.

Regulation 3
of Gas Safety
(Registration of Gas
Installation and
Gas Contractors)
Regulations
Chapter 51D

8.8 Lift Breakdown or Trapping

- (a) The property manager shall immediately inform the lift maintenance contractor to attend the incident.
- (b) If there are any passengers being trapped inside the lifts, the security guard or caretaker shall make use of the intercom to console and comfort the passengers while enquire the exact level of trapping, number and type of persons trapped (with children, aged, sicked, pregnant or not).
- (c) Keep continuous communication with the trapped passengers, and to keep them calm. Do not try to force open the lift doors.
- (d) If the lift contractor is unable to arrive within 15 minutes while passengers are being trapped, the security guard or caretaker shall report to the Fire Services Department (FSD) immediately.
- (e) When either the lift contractor or FSD has arrived, the security guard or caretaker shall assist to release the passengers to an open area and try to record their particulars if possible.
- (f) Prepare an incident report to record the time, level being trapped, lift number and other particulars of the incident.



9.0 Deed of Mutual Covenant



9.0 Deed of Mutual Covenant

9.1 General

If the property is sub-divided into multi-ownership, the authority of the property manager is mainly derived from the Deed of Mutual Covenant (DMC).

The DMC is a legal document binding on all signatories and all property owners. The objective of a DMC is to set out clear rules and restrictions for property owners, occupiers and tenants in respect of using the common parts, private areas and facilities of the property as well as matters concerning the formation of owners' committee or owners' corporation.

9.2 Rights of a Property Owner

Upon purchasing a unit, each property owner will own certain undivided shares of the lot(s) on which the property is located. The DMC shall stipulate the rights and interests of the property owners which shall include but not limited to the following:

- (a) Exclusive possession, use, occupation and enjoyment of the unit under the property owner's name;
- (b) Full right to freely sell, assign, let or permit the use by others of his/her shares in the property without the intervention of other property owners;
- (c) The right to use freely, with other property owners, the common parts and facilities, so as to have the proper use and enjoyment of the property; and
- (d) Voting right in the decision of policy on management of the property in general.

9.3 Obligations and responsibilities of a Property Owner

Apart from the rights and interests, the DMC shall also set out the obligations and responsibilities of a property owner.

- (a) To comply with all statutory and land grant requirements in exercising his/her rights under the DMC;
- (b) To be responsible for his share of payment including management fee and contribution of funds;
- (c) To be responsible for maintaining the structural elements of the property in good condition;
- (d) To be responsible for paying tax and rates of his/her own unit; and
- (e) To comply with the rules and restrictions as set out in the DMC.

Relevant
Ordinance

9.4 Management Budget

The property manager shall compile a budget to facilitate the proper management of the property. The budget shall be sufficient to meet all expenses for the management and maintenance operation of the property. Apportionment of these expenses shall be shared by the property owners in proportion to their individual shares as stipulated in the DMC.

It is usually required by the DMC that the management account shall be separated between different uses. For example, the domestic, commercial and carparking accounts shall be clearly separated.

A contingency fund shall also be established to meet any inadequacies of the budget and most importantly to provide for urgent needs. The apportionment of contribution of this fund shall also be shared by the property owners in proportion to their individual shares as stipulated in the DMC.

9.5 Impact of Building Management Ordinance (BMO)

The BMO sets out clearly, in legal terms, the rights and responsibilities of property owners in forming Owners' Corporation (OC) and the way of managing their properties.

Section 3,
3A & 4 of Building
Management
Ordinance

The BMO introduces mandatory terms for incorporation into all existing DMCs with an aim to rectify unfair situations which may deprive property owners' rights. In the event of inconsistencies between the provisions with the DMC, the related sections of the BMO will usually prevail.

Part VIA &
Seventh
Schedule of
BMO

The OC formed under the BMO shall be responsible for the control, management, maintenance and administration of the common parts of the property on behalf of all individual property owners.

Section 18 of
BMO

All resolutions made at the property owners' general meeting have to be observed by the Management Committee of the OC, the property owners and the property manager appointed to manage the property.

9.6 Default of Management Fee

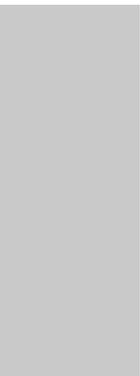
The property manager shall only take action on defaulting property owners on management fee arrears according to the powers authorised under the respective clauses of the DMC.

As a general practice, disconnection or interference of utility services such as water supply, gas supply, electricity supply or telephone service is prohibited. Such action will usually infringe respective utility supplies ordinances and is detrimental to the interest of the public authority. In addition, it could be dangerous in case of accident happened.

Generally, the actions that are empowered by the DMC to the property manager may include either one or all of the following.

- (a) Posting the information of the defaulting property owners on the notice board. Care must be taken on the requirements of the Personal Data (Privacy) Ordinance.
- (b) Issuance of reminders and warning letters to property owners concerned.
- (c) Imposing interest and/or collection charges on the arrears.
- (d) Taking legal action at the Small Claims Tribunal or a court.
- (e) Register a "Charge" on the arrears at the Land Registry.

Personal Data
(Privacy)
Ordinance



10.0

Tenancy

Management



Relevant
Ordinance

10.0 Tenancy Management

10.1 Tenancy Agreement

Tenancy Agreement (TA) is a contract signed between the landlord and the tenant and it spells out the rights and obligations of either party. Each TA gives the tenant the right of exclusive possession of the property for a definite period of time. As such, it is important that the TA is drafted properly to protect the interest of both parties.

It is common practice to use the word “Lease” for a tenancy term exceeding 3 years.

10.2 Classification under Legal Framework of Hong Kong

10.2.1 *Tenancy*

Landlord and
Tenant
(Consolidation)
Ordinance

Under the Chapter 7 Landlord and Tenant (Consolidation) Ordinance, Part IV covers domestic tenancies while Part V covers non-domestic tenancies.

10.2.2 *Licence*

Licence is a contractual right granted by the licensor to the licensee with a permission entitling the licensee to carry out activities on the property which would otherwise be a trespass. But licence does not create any estate in the property and no exclusive possession is granted. The Landlord and Tenant (Consolidation) Ordinance applies to a TA but not a licence.

It should be noted that licence is not liable to stamp duty.

10.3 Formality

10.3.1 *By Deed*

Conveyancing and Property Ordinance (Cap 219) provides that a legal estate in land may be created, extinguished or disposed of only by deed. A lease is for a term of years absolute and being a legal estate in land, can therefore be created only by deed.

Conveyancing and
Property
Ordinance

Relevant
Ordinance

A deed is an instrument which is signed, sealed and delivered by the parties to it.

Execution of the deed can be done by an individual or an authorised agent of the contractual party. If a party is a corporation, the manner of signing a sealed instrument would be governed by its Articles of Association.

The following outlines the presumption of due execution by a corporation under the Conveyancing and Property Ordinance (Cap 219):

- (a) 2 Directors; or
- (b) 1 Director and 1 Secretary; or
- (c) 1 Director and 1 permanent officer

However, deed is not an essential requirement under the Conveyancing and Property Ordinance (Cap 219) when the grant, disposal or surrender of a lease takes effect in possession for a term not exceeding 3 years (whether or not the lessee is given power to extend the term) at the best rent which can be reasonably obtained without a premium. Under such circumstances, a tenancy can be created either orally or in writing without using the deed format.

10.3.2 Stamp Duty

The TA or lease should be forwarded to the Stamp Office of the Inland Revenue Department for stamping within 30 days after the date of execution.

Stamp Duty
Ordinance

Failing to stamp a TA or lease will cause the landlord and the tenant liable to civil proceedings and the Court may not accept an unstamped tenancy document as evidence in civil proceedings.

A tenancy document must be stamped before it can be registered at the Lands Registry.

10.3.3 Statutory Notice

The landlord of a Part IV (domestic) tenancies should be aware that he/she shall submit a Notice of New Letting or Renewal Agreement (Form CR109) to the Commissioner of Rating and Valuation for endorsement within 1 month from the date of the execution of the tenancy document. Failing to do so, the landlord is not entitled to institute legal action to recover the rent in arrears.

Landlord and
Tenant
(Consolidation)
Ordinance

Relevant
Ordinance

However, a landlord can subsequently submit the Form CR109 even after the said one month period by paying a fee for late payment.

10.3.4 *Registration*

If a lease has a term of more than 3 years, it should be registered at the Land Registry within 30 days of the date of execution; otherwise it will lose priority under the Land Registration Ordinance (Cap128).

Land Registration
Ordinance

Further, when a TA contains an option to renew, it should be registered even though the term of the tenancy does not exceed 3 years.

10.4 Leasing Practice

10.4.1 *Investigations to be taken by the Landlord*

As financial capacity and capability of rental payment are major concerns of the landlord, the following actions should be taken by the landlord.

- (a) If the tenant is a limited company, a search at the Companies Registry to ascertain who are the directors and/or a winding-up search at the Official Receiver's Office to ascertain whether any petition to wind-up the company has been registered should be conducted.
- (b) If the tenant is an individual, the landlord may conduct a bankruptcy search at the Official Receiver's Office to ensure whether any bankruptcy petition has been registered against the tenant.
- (c) Landlord may ask for bank reference or further appoint private investigators to identify the creditworthiness of a potential tenant.

Companies
Ordinance

Bankruptcy
Ordinance

10.4.2 *Salient Terms and Conditions under the TA*

A landlord and a tenant can freely negotiate the terms and conditions of the TA or lease within the legal framework. The following paragraphs outline some important terms and conditions which may be relevant in the leasing market.

(a) Premises

These should be clearly defined in the TA with the plan annexed to it.

(b) Length of the Term and Option to Renew

Commencement date and length of the term must be clear. The landlord may grant to the tenant a renewal option after expiry of the current term, normally at a pre-agreed method of determination on the rent.

As an option to renew represents a legal interest in land and affects the principles of notice and priority, the relevant tenancy document should be registered.

(c) Rent and Rent Free Period

How much is the rent, how is it calculated and when it is payable need to be clearly stated. It is common that rent free period is granted on new letting for the purposes of carrying out fit-out works by the tenant.

(d) Service Charges

Who is to be responsible for the service charges, i.e. the landlord or the tenant? How these costs are calculated and what they cover is essential to be incorporated in the TA.

(e) Break Clause

Both the landlord and the tenant cannot unilaterally terminate the tenancy before its expiration unless either of them has breached the vital terms of the tenancy. However, early termination clause can be incorporated into the TA if both parties agree to do so.

(f) Rent Review Clause

For a long lease, there should be a rent review provision whereby the rent is brought to the then open market rent after certain period of time. It is important that the rules by which the rent can be changed should be clear and understandable. The term of open market rent should be clearly defined. If there is a dispute, how is it to be resolved? Normally, this is to be referred to an independent expert or arbitrator to settle.

Relevant
Ordinance

(g) Sub-letting

Normally, the TA will contain a prohibition on assignment and subletting. However, the landlord and the tenant can agree a subletting provision. The landlord usually imposes conditions on granting subletting right, e.g. limit on the area to be sublet; landlord's right to approve the identity of the sub-tenant; sharing of profit rent between landlord and tenant etc. The reason to impose conditions for subletting is to make sure that the sub-tenant is acceptable to the landlord.

(h) Repair

Respective responsibilities on repair between the landlord and tenant are relying on the terms and conditions of the tenancy document. A commonly adopted approach is that the landlord is responsible for external and structural repairs and maintenance, and the tenant is responsible for internal and non-structural ones.

However, it is very common that the tenant's obligations for repair and maintenance are limited by the phrase "fair wear and tear excepted" in the tenancy document. It means that the tenant's responsibilities on repair and maintenance will be diminished as a result of the time passing, and the ordinary and reasonable use of the property.

A well-drafted TA or lease should also contain a condition which specifies that the landlord's obligations for structural repairs and maintenance will arise only upon notice of the structural defects.

10.4.3 *Rent Receipts*

A landlord of Part IV (domestic) tenancies shall give to his/her tenant, at the time that the tenant pays his/her rent, a receipt which, at least, shall contain:

Landlord
and Tenant
(Consolidation)
Ordinance

- (a) the amount of the rent paid;
- (b) the name and address of the landlord;
- (c) the period in respect of which such rent was paid; and
- (d) the date of payment.

A landlord who fails to comply with the above provisions commits an offence and is liable to a fine.

Relevant
Ordinance

10.4.4 *Hand-over of the Property*

Photographs may be taken for record purposes and joint inspection of the property by the tenant and landlord should be made before the tenant takes possession.

10.4.5 *Termination of Tenancy*

The pre-9 July 2004 regime of the Landlord and Tenant (Consolidation) Ordinance (Cap 7) imposed respective duties on either the landlord or the tenant to serve prescribed prior notice in order to terminate the tenancy. However, this law was abolished with effect from 9 July 2004. Common situations of termination of a tenancy include the following:

Landlord
and Tenant
(Consolidation)
Ordinance

(a) *By Expiry of Term*

A fixed term tenancy will come to an end automatically on the last day of the term without having to serve any prior notice of termination by a party to another party.

(b) *By Forfeiture*

Even though a TA or lease does not contain a forfeiture clause, the Landlord and Tenant (Consolidation) Ordinance imposes implied conditions on both Part IV and Part V tenancies whereby if the tenant fails to pay rent for 15 days after the due date, the landlord shall be entitled to re-enter upon the property whereupon the tenancy shall cease and the landlord may be entitled to forfeit the deposit.

If a tenancy is forfeited, it will also terminate sub-tenancies.

The procedures and details will be set out in Sections 10.5 and 10.6 below.

(c) *By Surrender*

Mere leaving the key at the property without the landlord's agreement in accepting the key is not surrender. Surrender is the return of the property by the tenant to his/her immediate landlord and the landlord accepts that return.

Relevant
Ordinance

10.5 Enforcement of Rent Arrears

The Landlord and Tenant (Consolidation) Ordinance

The Landlord and Tenant (Consolidation) Ordinance provides that, in the absence of any express covenant for the payment of rent and condition for forfeiture, it will be implied in every Part IV or Part V tenancy a covenant to pay the rent on the due date and a condition for forfeiture for non-payment of rent within 15 days of that date.

Therefore, in general, if a tenant is late in paying the rent for 15 days, the landlord is entitled to take legal action. The tenant, however, can avoid forfeiture of the tenancy by paying all of the outstanding rent in arrears before the landlord takes possession of the property.

There are basically 3 methods for claiming against the tenant for outstanding rent:

10.5.1 *By Litigation*

Depending on the amount to be claimed, the landlord has to institute legal proceedings in the proper court as follows (as at June 2008):

- (a) the Small Claims Tribunal for amount claimed not exceeding HK\$50,000.00;
- (b) the District Court if the amount claimed exceeding HK\$50,000.00 but not exceeding \$1,000,000.00; or
- (c) the Court of First Instance of the High Court for outstanding rent of any amount.

It should be noted that although the High Court has unlimited jurisdiction to handle any of the above claims, it may not entertain a claim that falls within the jurisdiction of the District Court or the Lands Tribunal.

Relevant
Ordinance

If the tenant still refuses to settle the outstanding rent after successfully claimed by the landlord in court, the landlord may, arming with the judgment, apply to court for one or more of the following orders for recovering the outstanding rent:

- (a) Charging Order: charge against tenant’s real property with a view to the ultimate sale of the property.
- (b) Writ of Fieri Facias: levy distress on the tenant’s chattels.
- (c) Garnishee Order: charge against the tenant’s debtor, requiring the latter to pay debt or money owing to the tenant directly to the landlord instead.
- (d) Prohibition Order: the order prohibits a judgment debtor from leaving Hong Kong if there is concrete evidence to demonstrate that the debtor will leave Hong Kong for the reason of avoiding payment of the judgment debt.

10.5.2 *Distress for Rent*

Landlord and
Tenant
(Consolidation)
Ordinance

Distress is commonly used in cases in which a tenant is still operating a business at the rented property. Part III of the Landlord and Tenant (Consolidation) Ordinance governs the procedures and formalities for applications for distress.

The application for distress is an ex-parte application (by one party only), meaning that the tenant will not have the chance to appear before the judge to make any submission or objection. This is to avoid the tenant knowing of the application and dissipating the available assets.

Upon the issue of a warrant, the court bailiff will visit the premises and seize any movable property belonging to the tenant. If the tenant cannot pay the rent arrears and the costs of distress within a stipulated time, the seized property will be sold to recover firstly the expenses for distress and then the outstanding rent.

10.5.3 *Forfeiture of Rental Deposit*

Landlord and
Tenant
(Consolidation)
Ordinance

As described in Section 10.5 above, the landlord is entitled to forfeit or deduct a sum from the rental deposit in order to recover the outstanding rent (and/or, depending on the provisions of the tenancy document, compensate the landlord’s loss in consequence of breach of tenancy by the tenant).

10.6	Forfeiture of the Tenancy	Relevant Ordinance
	<p>As described in Section 10.5 above, the landlord, in addition to instituting legal action for recovering the outstanding rent, shall be entitled to re-enter upon the property. The landlord is said to be exercising their right of forfeiture and may file their claims at:</p>	<p>Landlord and Tenant (Consolidation) Ordinance</p>
	<ul style="list-style-type: none"> (a) the Lands Tribunal; (b) the District Court if the outstanding rent does not exceed \$1,000,000 and the rateable value of the property does not exceed \$240,000 (as at June 2008); or (c) the Court of First Instance of the High Court for outstanding rent of any amount. 	
	<p>The landlord, after winning the case, can apply to the tribunal or appropriate court for a Writ of Possession. Upon the issue of the Writ of Possession, the court bailiff will recover the possession of the property on the landlord's behalf.</p>	
	<p>It is unsafe for the landlord to rely solely on the forfeiture clause for re-entering the property in a self-help manner. The tenant can reappear a few months later and allege that the landlord has misappropriated valuables left in the property.</p>	
	<p>Apart from civil liability, the landlord may also face criminal charges. Section 119V of the Landlord and Tenant (Consolidation) Ordinance (Cap 7) expressly provides that any person who unlawfully deprives a tenant of occupation of the relevant premises commits an offence and may be liable to a fine or even imprisonment.</p>	
	<p>References:</p>	
	<p>Davies E.R. (1986), <i>Contract</i>, 5th Edition, Sweet & Maxwell.</p>	
	<p>Dubben N. and Sayce S. (1991), <i>Property Portfolio Management, An Introduction</i>, Routledge.</p>	
	<p>http://www.hkcl.org visited in Oct. 2008</p>	
	<p>Lui L.Y. (2005), <i>A paper on Hong Kong Tenancy Law</i>, EAA & Lexis.</p>	
	<p>Merry M. (1989), <i>Hong Kong Tenancy Law</i>, 2nd Edition, Butterworths.</p>	

Disclaimer

This Guide, which is prepared by the Property and Facility Management Division of the Hong Kong Institute of Surveyors, seeks to outline the current practice in the field of property and facility management.

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