

Executive Summary of Investigation Report on Assistance Provided by Home Affairs Department to Owners and Owners' Corporations in Managing and Maintaining their Buildings

Background

This Office has received complaints from time to time against the Home Affairs Department (HAD) for not providing adequate assistance to property owners and Owners' Corporations (OCs) in managing and maintaining their buildings. In March this year, this Office completed a direct investigation into how HAD facilitated the formation of OCs. In the course of investigation, this Office noted considerable community concern over the adequacy and effectiveness of the assistance provided by HAD to owners and OCs. Against this background, The Ombudsman decided to conduct a direct investigation under section 7 (1)(a)(ii) of The Ombudsman Ordinance, Cap. 397.

The Investigation

2. This direct investigation :
 - examines HAD services and assistance to owners and OCs in managing and maintaining their buildings;
 - ascertains their adequacy and effectiveness; and
 - assesses the need for improvement.

Government Policy and Strategy

3. Responsibility for managing and maintaining private property rests with the owners. The role of Government in private building management is to encourage them to form OCs and to give advice and assistance. In April 2001, Government published a comprehensive strategy for building safety and timely maintenance which included measures for encouraging and improving responsible building management. In May 2001, the Secretary for Home Affairs (SHA) set out Government's three-pronged approach to strengthen support to owners and OCs :

- to provide a legal framework conducive to the formation and operation of OCs;
- to provide more professional advice, more comprehensive and accessible services to owners and OCs; and

- to provide training for OC members.

For this, Government allocated additional recurrent resources of \$43.9M a year to HAD, which included the provision for 90 posts.

Organisational Set-up and Staff Deployment

4. For improvement at **HQ level**, HAD set up in June 2001 a dedicated Division for overall planning and coordination of building management services, also for support and training for frontline staff. Headed by an Assistant Director, the Division is manned by liaison and housing grades staff, the latter seconded from Housing Department (HD). Posts for a Senior Building Surveyor (SBS) and a Senior Government Counsel (SGC) were created in March and November 2002 respectively to provide expert advice, compile reference materials, offer advice on training plans and programmes.

5. At **regional level**, HAD set up two more Building Management Resource Centres (BMRCs) to supplement the existing two¹. Staffed by liaison and housing grades staff, these Centres provide information, answer enquiries, offer advice and organise training courses, workshops and exhibitions. They also arrange appointments for owners and OC members seeking free expert advice from volunteer professional bodies².

6. At **district level**, between late 2001 and early 2002, HAD set up District Building Management Liaison Teams (DBMLTs) in the 18 District Offices (DOs) to help owners form OCs, provide proactive assistance to owners and OCs of problematic buildings, offer advice at meetings when invited, organise publicity and training programmes, handle complaints and mediate in disputes. DBMLTs are staffed by liaison and housing grades staff and supported by Temporary Community Organisers (TCOs).

¹ BMRC/K in Yaumatei and BMRC/HK in Central were set up in May 1998 and February 2000; BMRC/NTW in Tsuen Wan and BMRC/NTE in Shatin in June 2001 and February 2003.

² The seven volunteer professional bodies which offer free advisory services at BMRCs are the Law Society of Hong Kong, Hong Kong Society of Accountants, the Hong Kong Institute of Surveyors, the Hong Kong Association of Property Management Companies, Hong Kong Institution of Engineers, the Hong Kong Institute of Housing and the Hong Kong Institute of Architects.

Observations and Opinions

General

7. Over the decades, Government has enhanced resources and legislative backing to improve support to property owners and OCs, culminating in the Building Management (Amendment) Ordinance 2000 and the comprehensive strategy of April 2001. These proactive steps and positive strategies have raised public expectations with bright promises of a major move for improvement. Regrettably, in less than three years, the strides forward have staggered almost to a faltering halt – due in part to Government’s economy drive. Ironically, the outbreak of Severe Acute Respiratory Syndrome (SARS) has brought some blessings : Team Clean in the aftermath of the outbreak has indirectly helped to maintain something of the momentum in promoting cooperative building management services.

Staff Deployment

8. In March 2003, HAD decided to delete all 78 housing grade posts by phases, from 2002/03 to 2005/06. By 1 October 2003, 37 housing grade posts have been deleted³. The remaining 41 posts are scheduled for deletion by phases from October 2003 to March 2006⁴. HAD has reshuffled the duties of the remaining staff and recruited contract liaison officers. HAD also deleted the SBS post in July 2003 and would thereafter approach the Buildings Department (BD) for professional assistance as necessary. As for the SGC post, the incumbent has been physically stationed in the Department of Justice (D of J) instead of HAD HQ. In April 2003, the post was transferred to D of J permanently.

9. Most housing grade staff seconded to HAD are qualified housing managers. They have the knowledge and experience in advising owners and OCs on building management and maintenance matters. Their departure inevitably dilutes the expertise in HAD and affects the quality of services. The remaining staff are mainly liaison and executive by training and in experience. We question the wisdom of HAD in an across-the-board deletion of all of its housing grade posts. We are concerned over its impact on Government’s support for private building management.

10. HAD has not fully and gainfully maximised the professional expertise of the SBS and SGC. The deletion of the SBS post and remote operation of the SGC from D of J have defeated the original purpose of their creation for HAD HQ — to make way for more

³ Included one post of Senior Housing Manager (SHM) in HAD HQ, all 16 posts of Housing Manager (HM), 15 posts of Assistant Housing Manager (AHM) and 5 posts of Housing Officer (HO).

professionalism in HAD services to owners, OCs and staff. HAD's action is tantamount to turning the clock back to the pre-2000 era and a partial reversal of Government's strategy of April 2001.

11. We appreciate that HAD is required to achieve efficiency savings as with other Government departments. We are, however, mindful that these savings must not result in a deterioration of service standards. HAD must strike a careful balance between the two.

12. TCOs serving in DBMLTs conduct household visits and surveys, maintain close liaison with owners and OCs, collect intelligence and identify problems for follow-up by liaison officers. Many owners and OCs are, however, under the impression that the TCOs are meant to advise them. This is unfair to the TCOs as they are not trained for advisory services.

Means of Service Delivery

Information

13. HAD has published a number of building management booklets. These are supplemented by publications of other Government departments and various district building management handbooks, leaflets and newsletters. Together, they provide comprehensive and practical information for owners and OCs and deserve the widest possible circulation. While these publications are available for viewing at BMRCs, only some are uploaded onto the building management website⁵ for online viewing.

14. The information contained in the building management website is not sufficiently comprehensive and is organised by information type (e.g. legislation, reference materials, bulletin) rather than generic themes (e.g. building safety, fire safety, environmental hygiene). Retrieval of information on a particular building management theme can be difficult and time-consuming.

15. HAD has produced a Fire Safety Checklist to raise the awareness of owners and OCs to potential fire hazards. The Independent Commission Against Corruption (ICAC) has produced a number of checklists for the reference of owners and OCs. These checklists are useful self-inspection tools to enhance the awareness of owners and OCs to potential

⁴ 13 posts of AHM to be deleted by the end of 2003 and 28 posts of HO to be deleted by phases starting 2004.

⁵ Building Management Website : <http://www.buildingmgt.gov.hk>

problems.

Advice

16. Since April 2003, HAD has extended the opening hours of BMRC/Kowloon⁶ and enhanced the telephone redirection and recording services which operate after opening hours. This has improved the user-friendliness of the BMRCs and is a welcome move.

Dispute Resolution

17. Since September 2002, HAD has secured the assistance of professional bodies to provide free mediation service at BMRCs on a pilot basis. However, only four mediation sessions have been conducted since. To enhance staff capability in resolving conflicts and disputes among owners and OCs, HAD has since early 2003 organised courses on mediation practice.

Publicity and Training

18. HAD has strengthened publicity and training activities considerably over the past year or so. This has been in terms of an increase not only in activities and participants but also in variety. HAD should be commended for this effort.

19. HAD now provides basic legal knowledge, mainly on the powers and duties of OCs and the basic provisions of the Building Management Ordinance (BMO), in the building management courses for OC members. This may not be sufficient for them as they are essentially lay volunteers carrying out their building management responsibilities.

Building Management Coordination Committees (BMCCs)

20. HAD helps owners and OCs of problematic buildings to improve their management and maintenance through the BMCC scheme⁷. The scheme has made some success since its inception in 1985. The introduction of the Coordinated Maintenance of Buildings Scheme (CMBS) by BD in late 2000 has created some interface problems for the two schemes. While HAD had in early 2001 agreed with BD to categorise the buildings on the BMCC action lists, it took the department one and a half years to realise the emerging problems; and a further year to work out partial solution with BD. HAD should have realised these problems and worked out solutions with BD at an early stage. In our view,

⁶ New opening hours of BMRC/K : 10 a.m. to 10:00 p.m. on weekdays and 10 a.m. to 6:30 p.m. on Saturdays.

⁷ The BMCCs identify problematic buildings and coordinate inter-departmental efforts in resolving management

HAD was remiss in these procrastinating tactics.

Support and Control

Staff Advisory Service

21. HAD has produced the “Frequently Asked Questions (FAQs) on the BMO” for staff reference. However, the FAQs have only limited coverage. HAD is also preparing a manual on the maintenance of private buildings and an index of building management court cases for staff reference.

Staff Training

22. HAD has stepped up staff training considerably in recent years. This has helped to boost staff confidence in offering advice to owners and OCs. HAD is commended for these efforts.

23. HAD has a training plan, which sets out the courses for staff at the basic, advanced and supplementary level. However, this plan is not sufficiently comprehensive. HAD has commissioned tertiary educational institutions and enlisted the services of volunteer professionals for training staff, owners and OCs. We endorse this approach.

Management Information

24. HAD has no consistent classification of building management themes in generic terms. This is not conducive to accurate reporting of management information, trend analysis as well as service reviews and development.

Service Reviews

25. HAD set up an internal working group in May 2002, which regularly reviews and improve its building management services. It also conducts user satisfaction surveys to gauge performance and solicit user feedback on different areas of services. In late 2002, HAD held a series of focus group discussions with OC associations, professional bodies and District Council (DC) members to tap feedback and suggestions. These are important tools for service improvement and development.

and maintenance problems of these buildings.

Other Observations

26. A common observation from professional bodies during our discussion with them is the fragmentation of policy on private building management and the division of responsibilities among a number of Government bureaux and departments. The situation is complicated by Team Clean asking the Housing, Planning and Lands Bureau (HPLB) to formulate policy on mandatory formation of OCs and appointment of property management companies. Hitherto, these have been the long acknowledged functions of the Home Affairs Bureau (HAB). There are suggestions that Government should consider designating one single bureau to coordinate the formulation of policies on private building management. We see merit in this suggestion.

Conclusions

27. On the basis of our investigation, we have the following conclusions –

- (a) Over the past 30 years, Government has devoted much efforts to promote good building management. In recent years, Government has amended the BMO and drawn up proactive strategies and positive policies to further facilitate owners and OCs. These intentions and efforts are commendable;
- (b) HAD has in recent years put in commendable efforts to promote and support good building management and to organise more training for owners and OCs. However, the department still falls short in providing advice and proactive assistance to owners and OCs;
- (c) The deletion of all housing and professional grades posts for building management services has frustrated SHA's policy objectives declared and resourced in 2001;
- (d) While HAD should continue to enlist the voluntary services of professional bodies and volunteer professionals in private practice, the department must build up its own building management expertise for service enhancement and legislation reviews;
- (e) The proposals to further amend the BMO, the mandatory formation of OCs, appointment of property management companies and "empowerment" of district administration proposed by Team Clean compound HAD's position by putting additional burden on the department;

- (f) In this connection, the proposal in Government's strategy of April 2001 to register property management companies would raise their standards for more professional management and maintenance of private buildings. Government should expedite the implementation of this proposal;
- (g) Despite continued publicity and education, there are still owners and OCs who are under the misconception that Government has a duty to solve all of their management problems. This has created unnecessary difficulties for and undue burdens on HAD; and
- (h) While HAD has to achieve efficiency savings under Government's economy drive, it must not allow its services to slip or deteriorate. To this end, HAD must re-examine its roles, re-adjust its priorities and re-deploy its resources.

Recommendations

28. Against this background, The Ombudsman makes the following recommendations to HAD and the Administration –

HAD

Staff Deployment

- (a) To critically review its staff complement, in particular the across-the-board deletion of all housing and professional grades posts for building management services (para. 11);
- (b) To clarify and publicise the roles of liaison officers and TCOs for a realistic perception and reasonable expectations by owners and OCs (para. 12);

Means of Service Delivery

- (c) To upload building management publications onto or provide hyperlink access through the building management website (para. 13);

- (d) To enhance the information on the website and allow alternative access by themes (para. 14);
- (e) To produce, in collaboration with departments and professional bodies, more checklists for the reference of owners and OCs (para. 15);
- (f) To review the needs of BMRC users on a regular basis and extend or revise the opening hours of BMRCs for client convenience (para. 16);
- (g) To publicise more widely the pilot mediation scheme provided at BMRCs (para. 17);
- (h) To step up training on the legal aspects of BMO for OC members (para. 19);
- (i) To critically review and resolve the interface problems between BMCC and CMBS (para. 20);

Support and Control

- (j) To expedite the production of staff reference materials under preparation and to expand the FAQs (para. 21);
- (k) To refine the staff training and development plan (para. 23);
- (l) To consider sponsoring appropriate staff to acquire formal qualification in housing management in order to build up departmental expertise (para. 23);
- (m) To devise a set of standard classification of building management themes and sub-themes for consistent reporting of management information (para. 24);
- (n) To consider setting up in DOs a network of Client Liaison Groups to tap user feedback and suggestions (para. 25); and

The Administration

- (o) To consider designating one single bureau in Government to coordinate the formulation of policies on private building management (para. 26).

Final Remarks

29. Overall, HAD has accepted all recommendations in the report.

- End -

Office of The Ombudsman

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