



地政總署
法律諮詢及田土轉易處
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LANDS DEPARTMENT

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來函檔號 Your Ref:
THE LAW SOCIETY OF H.K.

14 May 2001

7 MAY 01 14:35 Secretary General
The Law Society of Hong Kong
3/F, Wing On House
71 Des Voeux Road Central
Hong Kong

Dear Sir,

**Conditions of Land Grants
Breaches of Restrictions on "Building Mortgages"**

It has come to my attention recently that some building mortgages purportedly executed pursuant to the provisions in the lease condition governing alienation prior to compliance are in fact outside the meaning of "building mortgage" as defined in such condition.

I wish to remind Solicitors that the Registrar General (Land Office)'s Circular Memorandum No. 99 on Building Mortgages dated 17 November 1990 is still in effect. A copy is enclosed for reference. In particular, paragraph 5 provides that any mortgage or charge under this Special Condition must oblige the mortgagee, upon receipt of a sum representing the total purchase price under an agreement for sale and purchase approved by the Director of Lands in respect of a share or interest in the lot, to release that share or interest from the mortgage, failing which, it does not qualify as a "building mortgage" as defined in the lease conditions.

If the mortgage or charge provides that the release is subject to certain conditions, for example, if the release is made conditional upon there being no event of default or that the remaining security is adequate, then such mortgage or charge is not a qualified "building mortgage".

Solicitors are reminded that the provisions on building mortgage in the lease conditions must be strictly adhered to. Any mortgage or charge not within the definition of "building mortgage" constitutes a breach of the lease conditions which entitles the Government to re-enter the lot.

I would be grateful if you would remind your Members of this requirement and bring this letter to their attention.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'T. E. Berry'. The signature is written in a cursive style with a large, stylized 'B'.

(T E Berry)
Deputy Director/Legal
for Director of Lands