



THE

LAW SOCIETY OF HONG KONG

香港律師會

3/F WING ON HOUSE · 71 DES VOEUX ROAD
CENTRAL · HONG KONG DX-009100 Central 1
香港中環德輔道中71號
永安集團大廈3字樓

TELEPHONE (電話) : (852) 2846 0500
FACSIMILE (傳真) : (852) 2845 0387
E-MAIL (電子郵件) : sg@hklawsoc.org.hk
WEBSITE (網頁) : www.hklawsoc.org.hk

Our Ref :
Your Ref :
Direct Line :

PPTY/8273159
DEVB(PL-CR) 1-10/43

President
會長

Roden M.L. TONG
湯文龍

Vice-Presidents
副會長

Amirali B. NASIR
黎雅明
Christopher K.K. YU
余國堅
Careen H.Y. WONG
黃巧欣

Council Members
理事

Calvin K. CHENG
鄭偉邦
Jimmy K.H. CHAN
陳國豪
Tom K.M. FU
傅嘉綿
Ronald K.N. SUM
岑君毅
Justin H.Y. YUEN
袁凱英
Simon J. McCONNELL
馬康利
Pak Sun HAU
侯百榮
Hin Han SHUM
岑顯恆
Vincent S.K. TSO
曹紹基
Joyce C. CHENG
鄭程
Neville C.H. CHENG
鄭宗漢
Heidi H.Y. CHUI
徐凱怡
Chris T. ZHAO
趙彤
Karen K.W. CHEUNG
張嘉尹
Terry T.C. YANG
楊大志

Secretary General
秘書長

Wendy Y.W. LEE
李昱穎

Deputy Secretary General
副秘書長

Kally K.L. LAM
林嘉麗
Karen K.Y. LAW
羅家欣

19 August 2025

**BY FAX (2899 2916) AND
BY POST**

Planning and Lands Branch
Development Bureau Government Secretariat
Central Government Offices,
2 Tim Mei Avenue, Tamar,
Hong Kong

Attn.: Miss HS Cheung

Dear Sirs,

Registration of Titles and Land (Miscellaneous Amendments) Bill 2025 — Development Bureau's Response to The Law Society further Submission on 2 July 2025

We refer to your response dated 23 July 2025. Whilst we note that you propose to address some issues in the subsidiary legislation, the following are the concerns which need to be dealt with:-

1. Clause 36 of the Bill (Paragraphs 7 to 11 of the Response)

We note your response in paragraphs 8 and 9 of the Response that effectiveness of an instrument remains to be determined by common law, and the LTO only governs the respective priority of instruments, such that even if a charging order ranks before an Agreement for Sale and Purchase (“SPA”) in terms of priority, it may not have the effect of charging the subject property if at the time the charging order is granted, an SPA has been entered into (such that beneficial interest has already been disposed of).

If however, instead of a charging order, a mortgage is entered into after the signing of the SPA, but the mortgage is lodged for registration before a consent caution (“CC”) in respect of the SPA is lodged, according to your reasoning, the mortgage will still be “subject to the SPA” even though it ranks

.../P.2

– 2 –

before the CC of the SPA as the registered owner has, by the time the mortgage is entered into, disposed of the beneficial interest in the subject property to the purchaser under the SPA.

Please also advise if the owner of a property enters into two SPAs in favour of two different purchasers, in the event the subsequent SPA is registered before the prior SPA, according to your reasoning, the subsequent SPA will still be subject to the prior SPA as the beneficial interest has been passed to the 1st purchaser under the prior SPA.

If the above analysis is correct, it seems one of the purposes of the LTO, i.e. priority according to the date of the lodgment of registration, will be defeated.

2. Clause 71 of the Bill (Paragraphs 40 to 41 of the Response)

We note your response that in case of a sale by chargee not restricted by an inhibition order, the chargee will still need to apply to remove the inhibition order before the transfer effecting the sale will be registered. As the inhibition order does not restrict the power of sale of the chargee in the first place, we consider it inappropriate that the inhibition order must first be removed before the transfer can be registered.

There should be clarification as to what proof will the Registrar require in order to establish that the registered interest has been sold by a chargee.

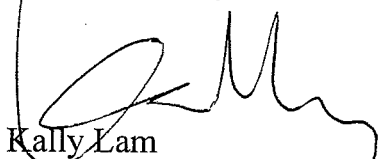
There should also be clarification as to whether a sale by receivers (whether acting in the name of receivers, or acting in the name of the mortgagor) of the registered interest constitute a sale by chargee for the purpose of section 77(1)(c) of the amended LTO.

3. Clause 74 of the Bill (Paragraph 42 of the Response)

In a deferred possession scenario, the vendor retains possession of the subject property until expiry of the later agreed period when only possession will be passed to the purchaser. In such circumstances, how can the vendor be regarded as the tenant or licensee of the purchaser, as possession has not yet

been delivered to the purchaser in the first place? Your analysis that the vendor is in law either a tenant or a licensee errs in law and fails to take into account the special circumstances of a deferred possession scenario which is not uncommon in sale and purchase transactions in Hong Kong.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Kally Lam', written over a vertical line.

Kally Lam
Deputy Secretary General and
Director of Practitioners Affairs

c.c. The Bills Committee
The Land Registrar
The Hon Ambrose Lam, JP