

## Part I — Notes

### Formation and Functions of an Owners' Corporation

An Owners' Corporation (OC) is an independent statutory body formed in accordance with the Building Management Ordinance (BMO) (Cap 344) which is administered by the Home Affairs Department. An OC is empowered to sue, but also liable to be sued. An OC acts legally on behalf of all owners in managing the common parts of a building, safeguarding their interests and taking up responsibilities.

### Taking out Insurance Policies

Building insurance provides compensation for financial losses in the case of death, injury, destruction and damage accidentally incurred through management of buildings, thus lowering the liabilities to be borne by the owners or management body of a building.

It is common for individual owners to exclude the above from the insurance coverage maintained for their units and personal properties. Insurance covering common parts and facilities such as lifts, staircases, fire service installations, etc., of the building should be taken up by the OC or the management body.

Without building insurance, owners will have to bear the loss, cost for repairing and compensation. In case if money has to be raised for such purposes among all the owners, delay in repairs and disputes may result.

## Part II — Q&As

1.	<b>Upon receipt of a Buildings Ordinance (BO) s.24 order issued by Buildings Department (BD), the Owners' Corporation (OC) has engaged a contractor to remove UBW at the common area in the building, but some uncooperative persons (UP) obstruct the execution of works. Would BD offer us assistance?</b>
	BD would be pleased to facilitate OC in compliance with statutory orders. Under BO s40(4B), BD may prosecute the "UP" who obstructed the OC in complying with statutory orders. After receiving OC's notification, BD would investigate all information obtained from OC to determine whether prosecution action under BO s.40(4B) should be instigated.  If there is prosecution action under the BO s.40(4B) , members of the OC and

	<p>other persons involved in the carrying out of the required works may be required to give evidence as witnesses in the Court hearing to prove the obstruction by the UP.</p>
2.	<p><b>OC is voluntarily carrying out the maintenance work to the building but obstructing by some “UP”. Will BD instigate prosecution to those “UP”?</b></p>
	<p>No. According to BO s.39B, BD is only empowered to instigate prosecution action against the “UP” obstructing the OC to comply with statutory orders in respect of common parts of the building.</p>
3.	<p><b>The OC has engaged a contractor to carry out the repair works according to the Statutory Order issued under BO. Some owners are unwilling to pay for the works. Eventually, the works are suspended. What can the OC do?</b></p>
	<p>BO s.39B is only enforceable when the “UP”</p> <ul style="list-style-type: none"> <li>(i) obstructs a person employed or engaged by the OC in the carrying out of any works or other action that is required for the purpose of complying with the order ; or</li> <li>(ii) refuses to allow a person employed or engaged by the OC access to or the use of any premises, which is reasonably necessary for carrying out of any works or other action that is required for the purpose of complying with the order.</li> </ul> <p>“Unwilling to pay” cannot be considered as a contravention of BO s.39B. Thus, BD is not empowered to instigate prosecution action under BO s.40(4B). For the claims between the OC and the “UP” regarding the repair works, you may initiate the appropriate actions provided for under the Building Management Ordinance.</p>
4.	<p><b>OC has not properly informed me about the repair works after receiving the order issued from BD. Do I commit any offence of rejecting the contractor engaged by OC gaining access to my apartment for carrying out the repair works?</b></p>
	<p>Under BO s.39B no person should refuse to allow the person engaged by OC access to or the use of any premises for carrying out any works required for the purpose of complying with the order and OC also bears the responsibility of giving sufficient notice to the owners before seeking for such access to or use of the premises for carrying out such required works.</p> <p>In short, you do not contravene BO s.39B if the OC has not properly notified you, e.g. by means of written notice or through owners’ meetings etc., in regard</p>

	to the repair works.
<b>5.</b>	<b>Is it possible for the representatives of a building rather than the OC to sue the “UP” being not cooperative with us in carrying out the required works in the statutory order?</b>
	Actually, BO s.39B is to facilitate the OC formed under Building Management Ordinance (Cap. 344) in compliance with the statutory orders. A representative of a building is not legally bound under this Ordinance. Therefore, it is advisable for the building owners to form an OC to organize the maintenance works at common parts of the building.