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本署檔號 Our Ref: LACO 79/501/92 III
來函檔號 Your Ref:

10 January 1997

Secretary General
The Law Society of Hong Kong
Rooms 1403-1413
Swires House
10 Chater Road
Central
Hong Kong

Dear Sir

9-10 Hing Hon Road, Hong Kong
(Inland Lot No. 757 s.H & s.I)

Privy Council Decision

You will note that the Government was unsuccessful in the case of Fairfax Limited v AG of Hong Kong affecting the above property and in respect of which the Privy Council handed down its reasons on 17 December 1996.

I am aware that there has been considerable public interest in this decision, by conveyancing solicitors among your Members and particularly by owners of properties on other sections of Inland Lot No. 757. You will note that the Privy Council expressed its decision in relation to the lease of the whole of Inland Lot No. 757 and not only s.H & s.I which was the subject of the proceedings. The Council held that the only possible inference is that the Crown must have been aware of the fact of re-development on the various sections of this lot into high density, high rise buildings and in the circumstances, it is not realistic for Government to claim, as landlord, that it did not know of the development of the lot as a whole. Government must therefore be taken as having abandoned its right to enforce the covenant relating to the construction of villa residences only on the lot.

Government and the owners of flats on the various sections of Inland Lot No. 757 now have a clear statement of law that those sections which have been re-developed without modification of their original lease were entitled to do so and therefore have a good title to their property and that Government has abandoned its right to enforce the covenant relating to the construction of villa residences. Therefore, in this respect, there is no defect in their title to their property so far as Government is concerned. I confirm that Government will take no action to enforce any rights which it claimed in respect of the villa covenant against properties on Inland Lot No. 757 with regard to redevelopment into high rise multi-storey

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buildings and will not insist on a formal modification of the original lease. This confirmation is given only in respect of the villa residence covenant and without prejudice to Government's rights in respect of any other covenants or subsisting breaches on the lot.

I would be grateful if you would circulate the copy of this letter to your Members who may produce it for what it is worth in any transaction relating to Inland Lot No. 757.

Yours faithfully

A handwritten signature in cursive script that reads "T. E. Berry".

(T E Berry)
Principal Solicitor
for Director of Lands