Legal sanction of land boundary in the Titles Registration Bill

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The Land Titles Bill gives a feeling of reluctance in handling land boundary clauses. It tries first to disclaim any responsibility in a registered survey plan, and then further limits the registered survey plan to basically recent land grants. There are not many improvements as compared to current Deed Registration System as far as land boundaries are concerned.

It has been difficult enough, as explained by the Land Registrar in the Land Titles Bill Forum held in HKIS’s conference room last month, that the subject bill has been bothered and even bogged down by many titles related issues like period of conversion, indemnity and overriding interests. The Land Registry is thus very cautious to take land boundary rights on board the new registration law, where land boundary issues have long been labeled as problematic in Hong Kong.

According to HKIS’s views, the Administration would only provide guarantee of ownership but no “guarantee” of boundary. In fact, there is no absolute guarantee of boundary anywhere in the world. Specifically, no one titles jurisdiction would render monetary compensation on errors of a title plan. Instead, the compensation to the error would be absorbed by the professional indemnity insurance of the licensed land surveyors. Therefore, we should urge the Administration to provide a means to properly register a lot boundary, and the ‘guarantee’ issue should be dealt with in our land survey law. By

the mere act of implementing a legal sanction of land boundary, it solves half of the land boundary problems in Hong Kong, whereas the remaining half is the upgrading of all existing land boundary records.

Strictly speaking, we need one major land boundary clause in the Land Titles Bill that the registration of a title plan is subjected to the satisfaction of the Land Survey Authority. By doing that, the Hong Kong SAR Government then establishes a mechanism of legal boundary. The registered Land Boundary Plan is a prima facie land boundary evidence that could be readily used for any land administration or development activities.

The other administrative and technical details should be handled by the subsequent amendments of the Land Survey Ordinance. The necessary amendments would include:

- Voluntary application for all land parcels including sections, Old Schedule Lots and New Grants;
- Title plan is prepared by an Authorised Land Surveyor so that the standard & specification could be managed under the Land Survey ordinance; and,
- Subsequent setting up of a central survey record system for deposited titles plans.

By establishing a way to register a title plan and leaving all restrictive and discretionary considerations to the Land Survey Ordinance would be a practical approach to resolve the concerns of the general public and the Administration. Hong Kong will then have a new element in the security of land titles which has long existed in other developed societies. 


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