

## Memorandum

To : All Committee Members;  
Management Office  
cc : All Owners  
From : Sherman Wong, for and on behalf of Forever Grand Limited  
Date : 31/12/2008  
Subject : Pianos Displayed for Sale in Central Lobby

As both a premises owner and a committee member of the owners corporation (Incorporated Owners of Hung Hom Commercial Centre, hereafter called the OC), we hereby express our view over the issue regarding the pianos displayed for sale in the central lobby of our shopping mall (hereafter called the lobby) since the beginning of Christmas holidays (hereafter called the issue). 我司謹以業戶及業主立案法團管委會委員身份，就聖誕節期間，商場大堂被用作鋼琴展銷事件表達意見如下：

1. By convention, during all the days of major festivals, the central lobby is reserved for organizing free entertainment programs to all customers in the name of our complex as a whole. Commercial activities of any kind conducted in the site by any single entity or combination of parties for any reason is unprecedented. 據過往慣例，於重要節日期間，中央大堂，均保留予本大廈以物業整體名義提供免費文娛表演節目予顧客之用，並無任何個人或機構於此期間以此場地舉辦商業活動之先例。
2. The rationale behind the practice, rooted on the principle of equity, impartiality and openness, has been repeatedly and thoroughly discussed in the past two decades. Based on all proven and traceable records, the said practice has been generally accepted and strictly observed under broad consensus since the opening of our shopping mall. 此常規作法背後理據乃基於公平、公正及公開之原則而訂定，並經反覆辯正，任何可追查核實之紀錄皆說明此常規作法自本大廈啟用至今，均被廣泛接受及遵循。
3. To our best knowledge and understanding, after the establishment of the OC, the said practice has been followed and even strengthened. The license for the use of the lobby is advancedly scheduled and should not be granted in the absence of a prior approval from the OC directly or through the estate manager indirectly on condition that the OC is properly informed and gives its authorization explicitly in advance with the said practice as one of the overriding principle. Any ad hoc amendment or agreement contradicting to the original agreement incorporating the said practice in the clauses and violating the formalities for issuing the license should not be recognized. 據我司所知及理解，此常規作法於法團成立後繼續被沿用甚或強化，大堂使用皆需預先申請並經法團審批，以確保包含此常規作法之一切基本使用條款具凌駕於個別大堂使用協議之權力，任何不依程序、不符使用常規、臨時訂立而未經法團確認之使用協議皆應視作無效。
4. In our opinions, the lobby is abused if the use of it breach the relevant terms and conditions as stipulated in the original agreement. Any attempt, if there is any, including but not limited to false information, misleading description or unfaithful declaration, made to use the site for any unauthorized purpose can be deemed to be a fraudulent behavior. In addition, any agreement thereof intended for turning a forbidden activity into a "fait accompli (既成事實)" or "vested interest (既得利益)", without the endorsement of the OC should also be voided. 據我司所持見解，任何違反原先包括上述常規作法之使用協議，皆應被視作違約，如任何人或機構，曾以虛假資料，誤導性陳述或不誠實聲明取用場地，進行違反原先協議之活動，做成既定事實，更可被視作欺詐；任何以修改原先協議條款或另訂新協議取代原先協議，以謀違約活動得以受確認成既得利益者，皆應視作無效。
5. Regardless of the real cause of the issue, the present situation must be rectified immediately without any delay. The owners or their representatives of the pianos must remove their stuff away from the scene or they should understand that they must bear all the liabilities thus arise from the unauthorized occupation of the lobby. 無論事件肇因為何，現今情況務須即時糾正，鋼琴物主或其代理人須即時將其財物搬離大堂，否則一切責任自負。
6. The issue has caused irrevocable damages to all parties and is scandalous by nature. Nobody can be the winner in the endless controversy over the responsibility for the mistake. The sooner the situation is rectified, the less will be the loss to all parties concerned, especially for those persons or entities directly involved. 此本質屬不名譽之事件已對各方人士及機構做成無可彌補及無法逆轉之損害，無人能在其後無休止之責任爭拗中獲益，唯有從速清理場地，始能將可能損害減至最低，特別是直接參與此事件之有關人士或機構。

All the aforesaid opinions are expressed in our good faith to our best knowledge without any prejudice to the rights and interests of any party involved in the issue. Our opinions only serve for the reference of all the parties concerned but not the opinion of the Management Committee of the OC and should not be seen as a legal advice. We sincerely hope that all the parties involved should remain restrained and solve the problem as soon as possible. 以上意見，皆屬我司出於真誠無私，對有關各方人士機構利益並無偏袒及基於全部所知事實而提出，只供各有關人士及機構參考，絕不代表法團立場，亦不應視作法律意見，我司衷心期盼各有關人士保持克制，即時採取補救措施。

註：此備忘以英文版本為準，中文翻譯只供參考。

