

Get Out from the Common Areas (Racial Harassment)

More than half of the ethnic minorities in Hong Kong work as domestic helpers. Hong Kong's anti-discrimination ordinances provide protection to them during their stay and employment from discrimination on the ground of sex, marital status, pregnancy, family status, disability and race.

◆ The Complaint

Lina is a domestic helper from South Asia. She was a resident of a private housing estate managed by a property management company (the management company). On various occasions, including a Christmas celebration organised for residents, Lina and her friends, who are also foreign domestic helpers resided in the same housing estate, were rudely told to leave by the security guards of the management company and another resident, Mr A. The guards and Mr A believed the behaviours of Lina and friends were causing a disturbance, and Mr A made remarks such as "you are dirty because you are foreign maids" and accused them of making a mess. The same treatment did not occur for the Chinese or European-descent residents. The incident took place in front of many other residents on the spot. Lina and her friends felt humiliated, insulted and belittled.

✓ What the EOC did

Lina and her friends lodged separate complaints under the Race Discrimination Ordinance (RDO) with the Equal Opportunities Commission, represented by the same authorized person, against

the management company for racial harassment and against Mr. A for aiding the unlawful acts.

The complaints were settled through early conciliation with the following terms of settlement:

The management company agreed to set up guidelines for handling complaints regarding gatherings at common areas of the housing estate, and ensure the proper implementation of the guidelines by educating the handling staff. Notices with contact numbers of control room and management office would be posted in public places so that residents may contact the management company for assistance where necessary. Residents/users of the housing estate may seek help from the police where necessary, and the management company would co-operate with the police where appropriate. Complaints from residents would be investigated, regardless of their race, fairly and provided advice where appropriate.

Mr A agreed, should he lodge complaints for irregularities in the common areas of the housing estate, he would stay out-of-sight while the management company's staff members take follow-up action for a certain time period. If Mr A finds that the management company's staff members are not carrying out their duties properly in the course of following up the complaints after the specified period, Mr A could observe at a distance without interfering with the process to monitor the work of the management company's staff members. He could report the problems to the management company afterwards.

Points to Note:

- Under the RDO, it is unlawful for a person concerned with the provision of goods, facilities or services, or in relation to the management of premises, to racially harass a user or a person occupying the premises. Employers would be liable for the unlawful act done by their employees in the course of employment, whether or not it was done with the knowledge or approval of the employer. It shall be a defence for the employer to prove that reasonably practicable steps have been taken to prevent the employee from doing that act.
- Furthermore, a person who knowingly aids another person to do an act made unlawful by the RDO is to be treated as doing the act himself or herself.
- Private housing estates are not exempted from the anti-discrimination ordinances. The EOC urges property managers to ensure that they are not inadvertently discriminating against particular racial groups in the course of managing the premise, including in enabling access to particular facilities such as the public area or park. Policies related to access to the building's facilities should be regularly reviewed, in order to proactively promote amicable neighbourly relations and avoid legal liabilities.