Get out of 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 protect them from discrimination on the grounds of sex, marital status, pregnancy, family status, disability and race during their stay and employment.

◆ The Complaint

Lina was 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 were also foreign domestic helpers residing 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 claimed that the behaviours of Lina and her friends were causing a disturbance. Mr A also 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 to the Chinese or European residents. The incident took place in front of many other residents. 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 EOC, represented by the same authorised person, against the management company for racial harassment and against Mr A for aiding the unlawful act.

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 in common areas of the housing estate, and ensure proper implementation of the guidelines by educating the staff. Notices with contact numbers of the control room and management office would be posted in public places so that residents could contact the management company for assistance where necessary. Residents/users of the housing estate might seek help from the police where necessary, and the management company would co-operate with the police if needed. Complaints from residents would be investigated fairly, regardless of their race, and the complainants would be provided with advice where appropriate.

Mr A agreed that, should he lodge complaints for irregularities in the common areas of the housing estate, he would stay out of sight for a certain period of time and let the management company's staff members take follow-up actions. If Mr A found that the staff members failed to carry out their duties properly in the course of following up on the complaints within the specified period, Mr A could then observe the process at a distance without interfering in order to monitor the work of the 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 performed with the knowledge or approval of the employers. It shall be a defence for the employers to prove that reasonably practicable steps have been taken to prevent the employees from committing that act.

- Furthermore, a person who knowingly aids another person to commit an act made unlawful by the RDO is to be treated as committing the act himself/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 premises, including in enabling access to particular facilities such as public area or park. Policies related to access to the building's facilities should be regularly reviewed, and proactive effort made to promote amicable neighbourly relations, so as to avoid possible legal liabilities.