

## CHAPTER 9

### ELECTIONEERING AT THE LIVING AND WORKING PLACES OF VOTERS/ARs, PREMISES OF ORGANISATIONS TO WHICH VOTERS/ARs BELONG AND BUILDINGS WHICH VOTERS/ARs FREQUENT

#### PART I : GENERAL

9.1 There are occasions when candidates may wish to target their electioneering activities at an individual voter/AR or a group of voters/ARs at:

- (a) his/their living/working place(s);
- (b) the premises of the organisation(s) to which the voter(s)/AR(s) belong; or
- (c) the building(s) which the voter(s)/AR(s) frequent.

These electioneering activities include visits to, personal contact with people, using amplifying devices to advertise in the common parts of the building, display or distribution of election advertisements and holding of election meetings at, the places mentioned above. **Appendix H** gives some kind of reference as to what activity is to be regarded as electioneering activity. This chapter explains the general guidelines to be observed by candidates in conducting electioneering activities, the rights of all concerned and appeals to the voters/ARs, the management bodies of the organisations to which the voters/ARs belong and the management bodies of the buildings which the

voters/ARs frequent to **provide fair and equal treatment** to all candidates so as to ensure that the election is conducted fairly. *[Amended in September 2006]*

9.2 Candidates are reminded that different organisations may have their own guidelines to allow or disallow the conduct of electioneering activities on the premises under their management. To ensure the smooth conduct of electioneering activities in public or private places, it is always desirable for candidates to consult the relevant authorities or management in advance and to obtain permission from them for the conduct of electioneering activities in the places within their jurisdiction, if required. *[Added in September 2006]*

9.3 The general guidelines to be observed for conducting electioneering activities at the living and working places of voters/ARs, premises of organisations to which voters/ARs belong and buildings which voters/ARs frequent are set out in Part II below. The specific guidelines to be observed for conducting electioneering activities in the premises managed by the Housing Department and the Hong Kong Housing Society are set out in **Appendix I**. *[Added in September 2006]*

9.4 For the purpose of ensuring fair treatment and equal opportunity of access to all candidates in conducting electioneering activities and to avoid causing undue disturbance to the public, Part III below provides the owners/management of premises and organisations with some guidelines in handling applications for conducting electioneering activities in the premises under their control. *[Added in September 2006]*

## **PART II : GUIDELINES TO BE OBSERVED BY CANDIDATES IN THE CONDUCT OF ELECTIONEERING ACTIVITIES**

### **Visits to Living and Working Places of Voters/ARs**

9.5 Candidates should note that voters/ARs are free to invite, or accept the request from, a particular candidate(s), but not the others, to visit them at their own living or working places. However, access to a private office may require the approval of the management of the office building or the companies which employ the voters/ARs, and such management when making a decision should have due regard to the fair and equal treatment principle mentioned in Part III below. In conducting electioneering activities at the common parts of the living or working places of voters/ARs, candidates should observe the general guidelines set out in paras. 9. 8 to 9.13 below. *[Amended in September 2006]*

9.6 Any government offices, which are working places of voters/ARs, will be treated in the same manner as the premises referred to in this chapter. Government offices may allow or disallow electioneering activities as they wish, but such decision should comply with the fair and equal treatment principle mentioned in Part III below. *[Amended in September 2006]*

9.7 Due to security reasons, arrangements will not be made to facilitate in-person canvassing activities in a prison or the premises of a law enforcement agency. A visitor, who visits a prison or the premises of a law enforcement agency for a business or official purpose, is not allowed to canvass for votes. This is to ensure that such a visitor will not have an advantage over other persons who cannot make the visit. A person, who canvasses for votes during the aforesaid visit, commits an offence punishable with a fine at level 2 (up to \$5,000) and imprisonment for up to 3 months. [S 87A of the EAC (EP) (EC) Reg] *[Added in January 2010]*

## **Respect for the Decision and Privacy**

9.8 After a candidate has been notified of the decision of an organisation or a building relating to electioneering activities, he should ensure that he and his followers comply with the decision. *[Amended in September 2006]*

9.9 If a decision to disallow electioneering in an organisation or a building has been made, the candidate or his followers should conduct no electioneering activity in such places. If the candidate concerned acts against the decision of the organisation or building and electioneers in whatever manner, then he commits trespass and the organisation or building management can simply stop him doing the contravening act or carry out the decision to exclude the candidate concerned. If the candidate refuses to leave, it would be wise in such circumstances for the organisation or building management, as the case may be, to report the matter to the Police in the first instance and then to the EAC or its Complaints Committee which will decide whether to publish a **reprimand** or **censure** against the candidate concerned. *[Amended in September 2006]*

9.10 A candidate and his supporters should respect the decisions of the organisation or building management, and it is unwise to enter into **arguments** with members of the organisation or the building residents who obstruct the candidate's electioneering inside the premises of the organisation or the building. Such arguments may affect the candidate's reputation or image with members of the organisation or the residents of the building. Any dissatisfaction with the decision or act of the organisation or the building should more properly be made a subject of a complaint as soon as possible to the EAC or its Complaints Committee which will decide whether the decision or act is fair or unfair.

9.11           **Privacy of the voters/ARs should be respected.** A guidance note on personal data privacy in respect of electioneering activities, prepared by the Office of the Privacy Commissioner for Personal Data, is at **Appendix J**. It serves as a general reference on compliance with the requirements of the Personal Data (Privacy) Ordinance (Cap 486) (“PD (P) O”) in relation to electioneering activities that may involve the collection and use of personal data of an individual. Candidates are supplied by the REO with an extract of the subsector FR which contains the name, gender and residential address of the voters/ARs of the relevant subsectors, but not their telephone numbers. Some members of the public do not like or detest being called over the **telephone** or the **entrance intercom system** and others do not like their names being called out aloud. Their disapproval may be reflected in their choice of candidates on polling day. It is therefore unwise to telephone voters/ARs who find such approaches objectionable or to act in any other way that may antagonise them. As a matter of good practice, candidates and their supporters should maintain a list of voters/ARs that they know finding such electioneering telephone calls or visits objectionable and avoid approaching these voters/ARs again. On the other hand, voters/ARs who receive objectionable telephone calls can just disconnect them. If the caller does not desist from calling and causes a nuisance, the voter/AR should report the matter as soon as possible to the **Police** who may take action against the caller. *[Amended in September 2006]*

9.12           Some candidates or their supporters may use **loud-hailers** to assist their campaign. They should exercise restraint in the use of loud-hailers so as not to create a nuisance to the persons in the vicinity, including those who live in the buildings nearby. Candidates are therefore required **NOT** to use loudspeakers in electioneering **between 9 pm and 9 am**. If the EAC comes to know that a candidate has breached the time restriction, it may make a reprimand or censure against the candidate. Excessive noise will amount to an offence and the Police may be called. Anyway, it is unwise to create a nuisance through the use of loud-hailers, for the annoyance of the voters/ARs will obviously be reflected in

their choice of candidate. [See also Chapter 12 on “Use of Sound Amplifying Device and Vehicles”.]

### **Identification of Canvassers**

9.13 For security reasons and for prevention of abuse, the EAC advises that each candidate should provide some forms of identification to his canvassers for them to enter the premises of an organisation or a building for electioneering purposes. The EAC suggests that the candidate should devise an authenticated identification document containing the name and photograph of his canvasser who should produce this identification document together with his identity card for inspection to gain entry into the premises of an organisation or a building. Candidates should note that the production costs of this kind of identification document will be counted as election expenses.

## **PART III : GUIDELINES TO BE OBSERVED BY OWNERS, MANAGEMENT AND ORGANISATIONS FOR HANDLING APPLICATIONS FOR CONDUCT OF ELECTIONEERING ACTIVITIES ON THE PREMISES WITHIN THEIR JURISDICTION**

### **Electioneering at Premises of Organisations to which Voters/ARs Belong and Buildings which Voters/ARs Frequent**

9.14 The premises of the organisations to which the voters/ARs belong and the buildings which voters/ARs frequent usually do not belong to a particular voter/AR or group of voters/ARs. They are usually under the control of the management bodies of the organisations or the buildings concerned.

*[Amended in September 2006]*

9.15 The EAC appeals to all management bodies of the organisations or buildings concerned to provide **equal opportunity** to all candidates competing in the same EC subsector for the purposes of electioneering. However, if it is decided **not** to allow a particular candidate to conduct electioneering activities in the premises of the organisation or in the common parts of the building, no other candidate in the same EC subsector should be allowed to do so, for **it is important to provide fair and equal treatment to all candidates** so as to ensure that the election is conducted fairly.

9.16 The **common parts** of a building are usually under the control and management of the owners of the various units in the building. Where there is an owners' corporation of the building incorporated under the former Multi-storey Buildings (Owners Incorporation) Ordinance or the present Building Management Ordinance (Cap 344), the control and management of the common parts are exercised by the owners' corporation representing all the owners of the building.

9.17 Whatever organisation it is in such a building, be it an owners' corporation, owners' committee, mutual aid committee, tenants association, residents association, management company or managers of the building, the decision that it makes relating to electioneering activities of candidates in the common parts of the building, including the office premises of the organisation and all private streets, etc, **must comply with the fair and equal treatment principle**.

9.18 The organisation concerned should make a decision that applies equally and fairly to all candidates competing in the same subsector instead of dealing with each application from them separately. This will avoid having to convene a meeting to deal with each application upon its receipt, sometimes

incurring delay in dealing with some applications. The EAC may treat such delay as a device to avoid compliance with the fair and equal treatment principle and may issue a reprimand or censure.

9.19 As a motion on whether or not electioneering by candidates should be allowed in a building concerns the rights of tenants and occupiers more than those of owners, it is advisable for owners or owners' corporations to allow occupiers who are not owners to vote on the motion and a secret ballot is always the fairest way of voting on such a controversial subject. If approval or consent has been obtained from the owners having the control of the common parts of the building or the owners' corporation, the building management organisation may conduct a questionnaire survey to collect the views of the occupiers of each flat and act according to the majority view relating to matters covered by and in accordance with this chapter.

### **Notification of Decision**

9.20 The management bodies of organisations and buildings are urged to notify the relevant RO in writing as soon as possible of their decision on electioneering by candidates, so as to equip the relevant RO(s) with the correct information to be provided to the candidates who may make inquiries with him. A **form** of the notification to the RO can be obtained from the REO. **Where no notification is received by the RO after the expiration of the nomination period, he may assume that there is no objection from the organisation regarding electioneering by candidates in the building.** Nevertheless, candidates are advised to note that some buildings may not be able to make a decision on electioneering by candidates before the close of nomination and therefore have not given the notification to the RO as required. When candidates come across these buildings, they should respect the interim decision of the

management bodies of these buildings not to allow electioneering. *[Amended in September 2006]*

### **Display of Election Advertisements**

9.21 If the management bodies of the organisations or buildings decide that the display of election advertisements (which is a form of electioneering activity) is allowed in their premises, the management bodies of the organisations or buildings concerned should avoid handling applications by candidates for display of election advertisements on a first-come-first-served basis as this may create unfairness. For example, if one candidate knows the decision and applies to put up posters and banners on all available spots in the common parts of the building, no space will be left for other candidates who apply after him. To ensure fairness, management bodies are advised to:

- (a) ascertain all the available spots in their premises for candidates to display posters and banners;
- (b) decide on the maximum size of posters and banners to be allowed;
- (c) after the close of nomination of candidature, find out from the RO(s) how many candidates are contesting in the EC subsector(s) concerned;
- (d) divide all the available spaces according to quality and quantity to ensure equality as far as possible into portions equivalent to the number of candidates;

- (e) when one of the candidates applies for display, allow him to draw lots to obtain a portion of the spots still available at the time of his application; and
- (f) where two or more candidates wish to display their joint election advertisements, they should be allowed to do so but the joint election advertisements should occupy no more than the total of all the portions of the spots allocated to them by the restriction of size under (b) and the drawing of lots under (e).

*[Amended in September 2006]*

9.22 All persons who put up any publicity materials, including those which do not look election-related, in the nomination period at private premises should declare to the management body concerned in writing whether they are candidates or intend to stand as candidates in the election. This is to prevent prospective candidates to make use of such device to promote themselves. The management body is also advised to exercise its own judgement whether the publicity materials are serving electioneering purposes and then make a decision with due regard to the fair and equal treatment principle.

**PART IV: CONDUCT OF ELECTIONEERING ACTIVITIES IN  
PREMISES UNDER THE MANAGEMENT OF HOUSING  
DEPARTMENT AND HONG KONG HOUSING SOCIETY**

9.23 The specific guidelines to be observed by candidates and their agents in the conduct of electioneering activities in premises under the

management of Housing Department and Hong Kong Housing Society are set out in **Appendix I**. [*Amended in September 2006*]

## **PART V : SANCTION**

9.24 If the EAC receives a complaint of unfair or unequal treatment of candidates by any organisation or building or a person acting or purporting to act on behalf of such organisation or building, and is satisfied that the complaint is justified, it may make a **reprimand** or **censure** in a public statement which may include the names of the candidates favourably and unfavourably treated. Candidates should therefore advise the organisation management or building owners whom they approach of these guidelines. On the other hand, however, if it is proved that a person has made a false, unfounded or unreasonable allegation of unfair treatment by an organisation or a building, the EAC may issue a reprimand or censure in a public statement against that person.

9.25 Candidates should also refrain from accepting any unfair advantage over other candidates in the same subsector even though such may be ready on offer by an organisation or a building. The EAC may publish a public reprimand or censure against the candidate who contravenes the guidelines in this chapter or whose act or behaviour results in any unfair or unequal treatment by organisations or buildings towards any other candidate.