

## 止水有「法」Part 2 有關法律費用或索償

### Legal Means to Address Water Seepage (Part 2) Legal Costs or Claims

**熒幕蓋字：**主持 Kily

**Super:** Kily

Host

香港律師會 梁匡舜律師

LEUNG Hong-shun, Alexander

Solicitor, The Law Society of Hong Kong

**Kily：**歡迎大家

**Kily:** Hello, everyone, I am Kily

今集我們繼續有梁律師

In this episode, practising solicitor Mr Alexander LEUNG will join us again

為大家解答一些有關法律費用以及索償的事宜

to answer some questions about legal costs and claims

**Kily：**若要處理滲水訴訟個案

**Kily:** In water seepage litigations,

應如何計算相關的法律費用？

how are legal costs calculated?

**梁匡舜律師：**法律費用通常是以每小時或每小時的部分計算

**Mr LEUNG:** Legal costs are usually charged on an hourly or part hourly basis

一般而言會跟隨勝負而定

Generally, the outcome of the litigation will determine who is to bear the legal costs

如果你的訴訟在法庭勝出的話

If you win your case

你可以追討你付出的律師費，一般情況為三分之二至四分之三

typically, you will be able to recover 2/3 to 3/4 of your legal costs incurred  
其餘的須自付

while you will bear the remaining amount yourself

**熒幕蓋字：** 法律費用  
**Super:** Legal Costs  
勝訴  
Successful litigant  
可要求敗訴一方支付  
can request the losing party to pay costs  
一般情況，你付出的律師費可以追討  
Generally, you can recover around 2/3 to 3/4  
大約三分之二至四分之三  
of the legal costs incurred

**梁匡舜律師：** 如果敗訴  
**Mr LEUNG:** If you lose your case  
你須要支付對方的律師費  
you will have to pay the legal costs of the opposite party  
及負責自己的所有律師費  
and your own full legal costs

**熒幕蓋字：** 法律費用  
**Super:** Legal Costs  
敗訴  
Unsuccessful litigant  
須支付對方所追討的律師費  
Liable to pay the legal costs of the opposite party  
及負責自己一方的所有律師費  
and your own full legal costs

**梁匡舜律師：** 如雙方未能就可追討的律師費達成共識  
**Mr LEUNG:** If both parties cannot reach an agreement on the recoverable legal costs  
可要求法庭作出判決  
they may request the court to tax the costs

**熒幕蓋字：** 雙方未能達成共識  
**Super:** Failure to reach an agreement on the recoverable legal costs  
可要求法庭作出判決  
File a request for taxation with the court

**Kily :** 可以申請法律援助嗎？

**Kily:** Is legal aid available?

**梁匡舜律師：** 於高等法院或區域法院處理的滲水訴訟

**Mr LEUNG:** Water seepage litigations in the High Court or the District Court

一般都可以申請法律援助

can usually be covered by legal aid

但須經過經濟資格審查及有合理勝算

but you will have to pass the means test and have reasonable grounds for taking or defending the proceedings

**熒幕蓋字：** 高等法院或區域法院

**Super:** High Court or District Court

法律援助

Legal Aid

經濟資格審查

Pass the means test

有合理勝算

Have reasonable grounds for taking or defending the proceedings

**梁匡舜律師：** 於土地審裁處以及小額錢債審裁處所進行的訴訟

**Mr LEUNG:** Litigations at the Lands Tribunal and the Small Claims Tribunal

就不可能申請法援

are not within the scope of legal aid

**熒幕蓋字：** 土地審裁處

**Super:** Lands Tribunal

小額錢債審裁處

Small Claims Tribunal

法律援助不受理

Legal Aid not available

**Kily :** 除了要求賠償外

可以入稟法院要求禁制令嗎？

**Kily:** Apart from lodging a claim for damages, can one apply to the court for an injunction?

**梁匡舜律師：** 如果滲水持續

**Mr LEUNG:** If water seepage persists  
一般是可以申請禁制令或者強制執行令  
normally you will be able to apply for an injunction or enforcement order

**熒幕蓋字：** 若滲水持續  
**Super:** If water seepage persists  
可申請禁制令  
you may apply for an injunction

**梁匡舜律師：** 但如果滲水已停止  
**Mr LEUNG:** However, if water seepage has ceased  
一般是不能夠申請相關的命令  
it's unlikely that you will be able to apply for such orders

**熒幕蓋字：** 若滲水停止  
**Super:** If water seepage has ceased  
不能夠申請禁制令  
you may not apply for an injunction

**Kily：** 透過小額錢債審裁處申請索償  
有沒有索償限額？  
可否要求禁制令？

**Kily:** Is there any upper limit for claims at the Small Claims Tribunal?  
Can we apply for an injunction?

**梁匡舜律師：** 有的  
**Mr LEUNG:** Yes, there is  
小額錢債審裁處的索償限額為港幣 75,000 元  
The upper limit for claims at the Small Claims Tribunal is HK\$75,000  
但是小額錢債審裁處不能夠作出任何禁制令或強制執行令  
but the Tribunal will not be able to grant any injunction or enforcement order

**熒幕蓋字：** 小額錢債審裁處  
**Super:** Small Claims Tribunal  
索償限額 HK\$75,000  
For claims not exceeding HK\$75,000  
不能作出禁制令

No power to grant an injunction

**梁匡舜律師：** 有關各個法院的分別，大家可以參考以下圖表

**Mr LEUNG:** You may take a look at the following infographics for a comparison between various courts and tribunals

**旁白：** 高等法院

**VO:** For proceedings in the High Court  
申索金額為港幣三百萬以上  
the amount claimed should be over HK\$3 million  
可以頒出禁令或強制執行令  
and an injunction or enforcement order may be granted  
可以申請法律援助  
You may apply for legal aid  
可以要求負方支付訟費  
and recover the legal costs from the losing party

**熒幕蓋字：** 高等法院

**Super:** High Court  
申索金額：港幣 300 萬元以上  
Amount claimed: over HK\$3 million  
禁令或強制執行令  
Injunction or enforcement order  
法律援助  
Legal aid  
由敗方支付訟費  
Legal costs to be borne by the losing party

**旁白：** 區域法院

**VO:** For proceedings in the District Court  
申索金額為超過港幣 75,000 元以上  
the amount claimed must be over HK\$75,000  
但不能超過港幣 300 萬元  
but not more than HK\$3 million  
可以頒出禁令或強制執行令  
and an injunction or enforcement order may be granted  
可以申請法律援助  
You may apply for legal aid

可以要求負方支付訟費  
and recover the legal costs from the losing party

**熒幕蓋字：** 區域法院  
**Super:** District Court  
申索金額：港幣 75,000 元以上至 300 萬元  
Amount claimed: over HK\$75,000 to \$3 million  
禁令或強制執行令  
Injunction or enforcement order  
法律援助  
Legal aid  
由敗方支付訟費  
Legal costs to be borne by the losing party

**旁白：** 土地審裁處，申索金額沒有特別規定  
**VO:** For proceedings at the Lands Tribunal, there is no specific limit on the amount claimed  
可以頒出禁令或強制執行令  
An injunction or enforcement order may be granted  
不可以申請法律援助  
Legal aid not available  
可以要求負方支付訟費  
May recover the legal costs from the losing party

**熒幕蓋字：** 土地審裁處  
**Super:** Lands Tribunal  
申索金額：沒有規定  
Amount claimed: Not specified  
禁令或強制執行令  
Injunction or enforcement order  
沒有法律援助  
Legal aid not available  
由敗方支付訟費  
Legal costs to be borne by the losing party

**旁白：** 小額錢債審裁處  
**VO:** For proceedings at the Small Claims Tribunal  
申索金額不能超過港幣 75,000 元

the amount claimed must not exceed HK\$75,000

不可以頒出禁令或強制執行令

injunction or enforcement order not available

不可以申請法律援助

Legal aid not available

不可以要求負方支付訟費

legal costs not recoverable from the losing party

**熒幕蓋字：** 小額錢債審裁處

**Super:** Small Claims Tribunal

申索金額：不能超過港幣 75,000 元

Amount claimed: not exceeding HK\$75,000

沒有禁令或強制執行令

Injunction or enforcement order not available

沒有法律援助

Legal aid not available

不可以要求負方支付訟費

Cannot recover legal costs from the losing party

**Kily：** 透過調解或小額錢債審裁處

**Kily:** For resolution of water seepage disputes through mediation or the Small Claims Tribunal,  
法律費用應如何計算？

how are legal costs calculated?

**梁匡舜律師：** 如果雙方於調解過程中達成協議

**Mr LEUNG:** If both parties reach an agreement during the mediation process

通常雙方的律師費的處理將會是協議條款之一

usually the legal costs for both parties will be dealt with in the terms of such an agreement

如果於小額錢債審裁處解決爭議

If disputes are determined at the Small Claims Tribunal

雙方（包括敗訴的一方）均不須支付對方的律師費

both parties (including the losing party) are not required to pay the legal costs of the opposite party

**Kily：** 假如勝訴

可以從哪幾方面索償？

**Kily:** If litigation is successful, what claims can be made?

梁匡舜律師：一般原則都是要視乎索償的項目和費用  
Mr LEUNG: The general principle is that, claims which are necessary and reasonable  
是否有需要以及是否合理  
may be recovered

大家可以參考以下圖表

You may take a look at the following infographics

旁白：單位維修的費用一般是可以的

VO: Costs of repairs are in general recoverable

熒幕蓋字：索償項目圖表

Super: Claim items

單位維修的費用

Costs of repairs

YES

旁白：聘請專家的費用一般是可以的

VO: Expert fees are in general recoverable

聘請的費用通常視作訟費的一部分

Expert fees are usually regarded as part of the legal costs

熒幕蓋字：索償項目圖表

Super: Claim items

聘請專家的費用

Expert fees

聘請的費用通常視作訟費的一部分

Expert fees are usually regarded as part of the legal costs

YES

旁白：聘請律師的費用一般是可以的

VO: Lawyers' fees are in general recoverable

聘請的費用通常視作訟費的一部分

Lawyers' fees are usually regarded as part of the legal costs

熒幕蓋字：索償項目圖表

Super: Claim items

聘請律師的費用

Lawyers' fees

聘請的費用通常視作訟費的一部分(小額錢債審裁處案例除外)



Lawyers' fees are usually regarded as part of the legal costs (excluding Small Claims Tribunal cases)

YES

旁白： 維修期間暫時租住其他單位或酒店的開支

VO: Expenses incurred for temporary stay at other flat or a hotel during the period of repairs

原則是可以的

are in principle recoverable

但是要視乎費用是否有需要及合理

but the expenses must be necessary and reasonable

熒幕蓋字： 索償項目圖表

Super: Claim items

維修期間暫時租住其他單位或酒店的開支

Expenses incurred for temporary stay at other flat or a hotel during the period of repairs

要視乎費用是否有需要及合理

but the expenses must be necessary and reasonable

旁白： 如果單位漏水嚴重，須要搬出

VO: If water seepage in a flat is so serious that moving out is necessary

一般是可索償相關的酒店開支

the relevant hotel expenses are in general claimable

熒幕蓋字： 索償項目圖表

Super: Claim items

維修期間暫時租住其他單位或酒店的開支

Rental expenses on temporary stay at another flat or a hotel during the maintenance period

例如：單位漏水嚴重，須要搬出

e.g. serious water seepage in a flat that warrants moving out

一般是可索償相關的酒店開支

relevant hotel expenses are in general claimable

YES

旁白：暫存家居物件到倉庫的費用，根據同一原則  
VO: By the same principle, claims for temporary storage fees of household items in storage facilities  
視乎是否有需要暫存家居物件到其他地方  
may be recoverable depending on whether  
及租倉庫費用  
such storage is necessary

熒幕蓋字：索償項目圖表  
Super: Claim items  
暫存家居物件到倉庫的費用  
Temporary storage fees of household items in storage facilities  
視乎是否有需要及合理  
may be recoverable if storage is necessary and the amount is reasonable

旁白：因漏水而損毀的物件的賠償費用一般是可以的  
VO: Compensation for property damage by water seepage is in general recoverable

熒幕蓋字：索償項目圖表  
Super: Claim items  
因漏水而損毀的物件的賠償費用  
Compensation for property damage by water seepage  
YES

旁白：維修工程期間所損失的租金  
VO: Loss of rental income during period of repairs  
如果單位是空置的，但因滲水問題  
If a flat is vacant but, due to water seepage problem  
未能放租直至滲水問題解決  
cannot to be rented out until such problem is resolved  
當中未能放租的時間，一般是可以索償  
the loss of rental income during such period when the flat cannot be rented out  
is in general recoverable

熒幕蓋字：索償項目圖表  
Super: Claim items  
維修工程期間所損失的租金  
Loss of rental income during period of repairs  
視乎個別情況

Subject to individual circumstances

案例 1

Case 1

**旁白：** 如單位已經租出，租客因滲水問題拒絕交租

**VO:** If a flat has been rented out, but the tenant refuses to pay rent due to the water seepage problem

則要視乎在租約條款內，租客是否有權不交租

the owner will have to see whether the tenant has the right to refuse to pay rent under the terms of tenancy agreement

如租客有權，亦不交租，業主則有權要求索償不能收到的租金

If the tenant has such a right and refuses to pay rent, the owner has the right to make a claim for the loss of rental income

**熒幕蓋字：** 索償項目圖表

**Super:** Claim items

維修工程期間所損失的租金

Loss of rental income during period of repairs

案例 2

Case 2

**旁白：** 利息

**VO:** Interest

訴訟之前的利息一般是不可以

Interest before commencement of litigation is in general not recoverable

**熒幕蓋字：** 索償項目圖表

**Super:** Claim items

利息

Interest

訴訟之前的利息一般是不可以

Interest before litigation is in general not claimable

NO

**Kily：** 最後提醒大家

**Kily:** Lastly, a reminder to everyone

樓宇業主應妥善保養以及維修樓宇

Building owners shall carry out proper maintenance and repairs to their buildings and apartments

千萬不要令小問題變大問題

and nip the problems in the bud before they get out of hand

**熒幕蓋字：**

免責聲明：

**Super:**

本訪問短片內容僅為一般法律知識，並不構成任何法律意見。

個別法律問題，應當就其個別情況尋求所需的法律諮詢。

屋宇署及香港律師會不會就本片之內容負上任何責任。

Disclaimer:

The content of this interview video is intended for providing general legal information only and does not constitute any legal advice.

For individual legal issues, please seek legal advice as necessary having regard to the specific circumstances.

The Buildings Department and The Law Society of Hong Kong shall not assume any responsibility for the content of this video.