

**LEGISLATIVE COUNCIL
PANEL ON PLANNING, LANDS AND WORKS**

BUILDING SAFETY AND TIMELY MAINTENANCE
Supplementary Information

PURPOSE

At the meeting of the Panel on 21 November 2000, Members discussed a paper and a set of Power Point slides on ideas for promoting timely maintenance for private buildings. In response to Members' comments, this paper provides Members with further information on:

- (a) the Co-ordinated Maintenance of Buildings Scheme (CMBS);
- (b) a possible Preventive Maintenance of Buildings Scheme (PMBS);
- (c) an assessment of the options, CMBS and PMBS;
- (d) technical and management support for building owners;
- (e) financial assistance for building owners;
- (f) a long-range approach to maintenance for new buildings;
- (g) recourse to market forces; and
- (h) sustained public education.

CO-ORDINATED MAINTENANCE OF BUILDINGS SCHEME

2. The CMBS is a recently-introduced administrative scheme aimed at helping building owners and owners' corporations (OCs) to comply with their statutory obligation to maintain their buildings in safe condition and to ensure all building-related enforcement legislation is co-ordinated efficiently and cost-effectively, with minimal inconvenience to owners or OCs.

Background

3. Responsibility for keeping a building in good repair and safe condition rests with the building owners or OCs, as specified in the Building Management Ordinance. The Ordinance was amended on 1 August 2000 to

require that OCs, in performing their duties and exercising their powers in relation to the management and maintenance of their buildings, should be guided by Codes of Practice issued under the Ordinance. OCs are now required to manage and maintain their buildings in accordance with the “Code of Practice on Building Management and Maintenance”, issued under the Ordinance by the Secretary for Home Affairs. At the same time, the Buildings Department (BD) is stepping up action against unauthorised building works. The CMBS has been developed to enable Government to assist building owners and OCs in taking up their responsibilities.

Implementation

4. The CMBS is being implemented initially as a pilot scheme on some 150 residential and composite buildings throughout Hong Kong showing dilapidation in the common areas and carrying a large number of unauthorised building works on the external walls. About 70 of these buildings are already the subject of attention by the Building Management Co-ordination Committee of District Offices, Home Affairs Department (HAD) and the other 80 or so have been chosen based upon BD records and input from Fire Services Department, Electrical and Mechanical Services Department, Food and Environmental Hygiene Department and Water Supplies Department.

5. The CMBS will operate as an extension of the “one-stop” service recently introduced by BD to enhance its support for private building owners, whereby all building safety matters for a pool of buildings in a district are handled by a designated officer and his team. Under the CMBS, the same officer will be designated as the Building Co-ordinator for those of the 150 selected buildings within his pool of buildings. He will be responsible for:

- (a) conducting, in association with other departments concerned, a survey of a selected building and determining the scope and nature of improvement works required;
- (b) arranging, through the District Office concerned, a meeting with the building owners or OC to advise them of the outcome of the survey of their building and explaining to them in detail the maintenance and repair works required to meet the requirements of the Code of Practice on Building Management and Maintenance and the technical issues involved;

- (c) assisting building owners who are in need to apply for low-interest loans under the Building Safety Improvement Loan Scheme to fund the necessary improvement works; and
- (d) initiating joint enforcement action under existing legislation with the relevant departments should the building owners or OC not proceed with the required works within a reasonable period of time.

The CMBS operates on existing legislation under the different enforcement departments.

6. As maintenance and repair works may be complex and must be carried out safely, building owners and OCs should appoint an Authorised Person (ie an architect, engineer or surveyor registered with the Building Authority) to manage and co-ordinate the works necessary, to invite tenders for registered contractors and to monitor the works for safety and in compliance with regulations.

7. If the pilot CMBS is successful, consideration will be given to implementing it on a wider scale. BD will be assessing results on the basis *inter alia* of owners' compliance and reviewing progress in consultation with departments concerned.

PREVENTIVE MAINTENANCE OF BUILDINGS SCHEME

8. The PMBS is a scheme drawn up in 1997 for public consultation. Having reviewed feedback on this, the task force on building safety and preventive maintenance (the task force) sees it as a possible alternative for promoting building safety through mandatory periodic inspection and regular maintenance. However, the task force is mindful of the diverse (and some diametrically opposing) views from previous consultation and the need for new legislation.

Background

9. The idea of requiring property owners to undertake periodic inspection and regular maintenance has been debated for years. In August 1997, BD issued a public consultation paper on a proposal for a mandatory Building Safety Inspection Scheme (BSIS). In brief, the mandatory scheme

would require owners of all private buildings over 20 years old to inspect their properties every seven years. Owners were to appoint building professionals to carry out two levels of inspection: general appraisal for all buildings and, as necessary, detailed investigation for repair works.

10. There was consensus that the responsibility for maintenance should rest with property owners. However, questions were raised as to why buildings over 20 years old but in good condition should be subject to inspection, whether high-risk and older buildings would be given priority, why all buildings should be re-inspected every seven years irrespective of their condition and whether Government would provide owners with any financial assistance.

Formula for a Preventive Maintenance of Buildings Scheme

11. After reviewing the various proposals and views aired over the years, the task force has concluded that any formula for mandatory periodic inspection and maintenance should uphold three principles: that owners are responsible for maintaining their own property; that Government should give positive and proactive support to owners in need, especially with initial inspections; and that regulatory or legislative measures should be kept to a minimum.

12. With this in mind, the task force considers that the previous proposal for mandatory measures to promote building maintenance could be revised as a PMBS with the following features:

- (a) BD would conduct initial inspections of buildings 20 to 40 years old to determine whether they require maintenance, with priority given to buildings 30 to 40 years old in relatively poor condition;
- (b) based on the findings of the initial inspection, the Building Authority would, as necessary, issue a preventive maintenance order to require owners to appoint building professionals (Authorised Persons and Registered Structural Engineers) to carry out further detailed inspection and appropriate repair works to cover –
 - structural safety;
 - integrity of external finishes;

- fire safety, particularly means of escape; and
 - clearance of unauthorised building works on the building exterior and in common areas;
- (c) if owners do not comply with the order, the Building Authority would appoint professionals for the works and recover from the owners the costs including supervision charges. In such cases, it would be for consideration whether the owners should be subject to prosecution as well;
- (d) thereafter owners would be required to carry out periodic inspections on the advice of building professionals;
- (e) BD would coordinate action with enforcement departments concerned on other aspects affecting building safety; and
- (f) owners in need of financial assistance would be able to apply for loans.

13. The PMBS would require new legislation in respect of (b), (c) and (d) above. Periodic inspections (following completion of work required by a preventive maintenance order) and compliance with a preventive maintenance order issued, where necessary, by the Building Authority would both be mandatory.

PMBS revised from BSIS

14. Whereas the BSIS proposal would rely on building owners to arrange for building professionals to conduct the initial inspection (ie a general appraisal), the task force's idea of the PMBS would envisage the Building Authority conducting the initial inspection. Under the BSIS, the trigger for a detailed inspection by building professionals would have been the age of the building (ie 20 years) with mandatory further inspections every seven years. Under the PMBS, the trigger would be a preventive maintenance order that may be issued by the Building Authority after initial inspection and the frequency of re-inspections would have regard to technical guidelines. Priority would be given to older buildings in poor condition so that age is not the only consideration. The changes proposed by the task force aim to address the concerns raised in previous consultation (paragraph 10 above).

15. The task force considers that a similar approach could be considered, by Civil Engineering Department (Geotechnical Engineering Office) in collaboration with BD, for maintenance of private slopes.

ASSESSING THE OPTIONS

16. The CMBS requires greater input from BD, as there is a high degree of co-ordination with other enforcement departments and direct liaison with building owners and OCs to provide them with an intensive level of joint technical support as opposed to imposition of further statutory controls. The pilot CMBS, currently implemented, will be reviewed in the light of experience (paragraph 7 above).

17. The PMBS would similarly require input from BD for initial general inspection of the building. Thereafter, if a preventive maintenance order is issued by the department, owners will be responsible for all follow-up action. As a PMBS would require new legislation, it could not be implemented until the law was amended.

18. The success or otherwise of any scheme for timely maintenance of buildings, whether statutory or non-statutory, depends upon the degree of co-operation from building owners and OCs. Until recently, building owners and OCs have not demonstrated a high rate of compliance with orders. However, experience from BD “blitz” operations has raised their compliance from 20-30% to 70-80%. BD is therefore optimistic in embarking on a new approach with the CMBS. Government is not seeking to impose more statutory responsibilities on building owners and OCs than is necessary and would prefer to see the results achieved with the CMBS before taking further regulatory steps. The task force therefore proposes that Government should review the pilot CMBS in the light of experience before considering whether it is necessary to introduce a mandatory scheme.

COMPREHENSIVE SUPPORT FOR BUILDING OWNERS AND OCs

19. In any case, Government will provide comprehensive guidance and assistance to building owners and OCs. This covers technical support, management and legal support, training and information and financial assistance. It also involves a restructured approach to these support services in BD and HAD, with due interface between the two.

Technical support

20. In addition to the advice and assistance from the BD “one-stop” service provided directly by the Building Co-ordinator and enhanced under CMBS (paragraph 5 above), BD will produce for distribution to building owners and OCs a comprehensive layman’s guide to building safety and maintenance. The guide will explain the technical aspects and set out the general legal position and the procedures for compliance with orders by the Building Authority. It will also advise on procurement of services of building professionals, model tender and contract documents, indicative information on professional fees and charges for different types of maintenance and repair works.

21. Registers of Authorised Persons and registered contractors are already available at BD, District Offices and Building Management Resource Centres. Building owners and OCs can also download from BD’s internet homepage.

Management and legal support

22. HAD encourages and advises owners to organize themselves. District Offices have been offering advisory and liaison services to their local community. The task force supports HAD’s plan to streamline, re-structure and expand its headquarters and district-based teams to give better support to owners and owners’ corporations in building management matters (paragraph 23-29).

Central support for front-line staff

23. HAD plans to establish a new headquarters division to streamline the co-ordination of building management matters and provide a more comprehensive advisory service on relevant issues. Two specialist teams, one for building professional support and the other for legal advisory services, will be set up within this new division to provide advice to front-line staff in the district-based teams when they encounter enquiries relating to real or apparent technical and legal issues. To equip the front-line staff with adequate knowledge of building management, tailor-made training courses will also be organised with tertiary institutes.

24. Meanwhile, the Director of Home Affairs has set up an interdepartmental steering group to monitor the implementation of the Building Management (Amendment) Ordinance 2000 and other related building

management matters. The Ordinance facilitates formation of owners' corporations and mandates management for problematic buildings, so as to achieve better building management and maintenance.

Regional one-stop shops

25. HAD has set up two Building Management Resource Centres, one at Yaumatei and the other at Central. A third one is planned to be set up in Tsuen Wan and the suitable location is being identified for the setting up of a fourth one in Sha Tin. The Building Management Resource Centres provide updated and comprehensive information on building management and answers to general enquiries. Seven professional bodies, including the Law Society of Hong Kong, Hong Kong Society of Accountants, the Hong Kong Institute of Surveyors, the Hong Kong Association of Property Management Companies, Hong Kong Institution of Engineers, the Hong Kong Institute of Housing and the Hong Kong Institute of Architects, generously offer members of the public preliminary professional advice via these Centres. Some of them wish to do more.

26. To further assist owners, some District Councils have called for enhancement of these Centres to act as regional one-stop shops for referring enquiries and complaints to enforcement departments and to complement the efforts of District Offices. This coincides with our views based on other community feedback. The task force aims to maximize the services of these community-spirited experts and the well-equipped facilities of the Centres.

District-based outreach assistance for owners

27. HAD plans to improve the capability of front-line staff in responding to enquiries from building owners, OCs and other building management bodies and resolving their problems.

28. Currently, temporary community organisers are employed at District Offices, particularly in urban districts, for servicing of OCs. Although training is provided to equip them to handle building management matters, they do not have sufficient in-depth knowledge in the subject. Experience indicates that the community expects such staff to play a more active role in advising owners, OCs and other bodies and assist their work in building management more effectively. In this connection, the task force supports HAD's idea to establish in each of the 18 districts a team specialising in building management matters to replace the existing 15 Building Management Co-ordination teams set up since 1985. Supported by the professional and legal advisory units in

the headquarters, the teams comprising full-time liaison and housing management professionals will assume a more proactive and technical role. Officers will be able to answer enquiries on building management and maintenance with greater confidence. In case of disputes, they will mediate amongst owners themselves or between owners and OCs.

29. These teams will visit buildings more frequently and attend more general meetings of OCs. They will also assist BD in implementing the pilot CMBS or “blitz” operations to clear unauthorised building works and identifying dilapidated or abandoned advertisement signboards. For poorly managed and maintained buildings, HAD building management teams, BD building co-ordinators and the staff of other enforcement departments will work jointly to help owners and OCs to carry out improvement works. Owners will be advised of action required and assistance available before any enforcement action.

Training and information

30. Apart from staff training, District Offices and Building Management Resources Centres have been organizing seminars, workshops and training courses for owners and OCs on theories and good practices of building management and maintenance. The task force recognises their importance in helping owners to understand their responsibility.

31. HAD will organize some 30 training courses in the coming year for owners and office-bearers of OCs on specialized subjects, such as auditing and accounting arrangements and meeting procedures. BD, Fire Services Department and other enforcement departments will continue to work closely together with HAD to hold more sessions.

32. To provide better information, the departments concerned will collaborate to provide a better database for more effective monitoring of private buildings and for more convenient reference by building professionals, property owners, management agents and the general public.

Further support for quality building management

33. Building owners should be assured of quality management. In July 2000, the Home Affairs Bureau gazetted a list of building management companies. Mechanism is already in place to register individual managers. The task force proposes that professional building management companies should also be regulated by registration. It is in line with trends worldwide for

bodies as well as individuals providing professional services to be subject to self-regulation under close community monitoring. It is for consideration what should be included as registration parameters eg:

- academic or technical qualifications;
- expertise and experience;
- track record of service; and
- financial standing.

FINANCIAL ASSISTANCE FOR BUILDING OWNERS AND OCs

34. The task force proposes merging the existing Building Safety Improvement Loan Fund and Fire Safety Improvement Loan Fund. This would create a single loan fund of \$700 million. In addition, the task force sees scope for simplifying the procedures for obtaining a loan so as to maximise utilisation for the benefit of individual owners and responsible OCs.

Wider coverage

35. At present, the ambit includes only improvement of structural stability, external finishes and fire safety and only for buildings under a voluntary BSIS. The task force considers that this should be extended also to cover general maintenance, removal of unauthorised building works, lift and slope safety and improved fire protection for buildings with cubicle units. Individual owners of all types of buildings (ie domestic, composite, commercial and industrial buildings) should be able to benefit from the combined fund. With the extended ambit, liberalised eligibility criteria and more user-friendly procedures, the combined fund would provide more effective support to individual owners.

Support for owners in need

36. The task force is particularly mindful of the needs of individual owners in hardship, eg elderly persons with very low income. They should have more generous terms. While repayment terms are normally 36 months at an interest rate with no gain or loss to the public purse, the task force proposes that individual owners in need be given the flexibility to repay at no interest over a much longer period, ie 72 months or to settle the loan upon transfer of title. To ensure proper understanding of their rights and obligations as well as application procedures, the departments should widely publicize and enlist the help of social workers and support teams for the elderly.

37. Often, willing and responsible owners who have organised themselves to face up to their responsibilities encounter difficulties with unco-operative and irresponsible, inaccessible or missing owners. The task force proposes assisting them via their OCs applying for loans from the combined fund to meet the shortfall arising from those owners declining to contribute their due share towards maintenance of the building. Security for such loans should be a charge against those owners' titles. Appropriate measures as checks and balance must be put in place to ensure proper and transparent execution and to guard against abuse. A possibility is for BD (as secretariat of the loan fund) to carefully scrutinise relevant documents (including cost quotation or budgets) and mediate where practicable before approving such loans. Where the owners or OCs are prepared to submit themselves to BD action, BD could take over arrangements for the works and recoup full costs from them. This is akin to existing arrangements for non-compliant owners and OCs.

38. The arrangements for the loan fund should be reviewed in the light of experience, say, after the second year of operation.

A LONG-RANGE APPROACH TO MAINTENANCE FOR NEW BUILDINGS

39. It is essential to take a long-range view to ensure from the outset that new buildings can be easily maintained. The task force believes that maintainability of new buildings should start well before construction, with land leases and deeds of mutual covenant. These documents govern the relationships among developers, property owners and building management. The responsibilities among developers and property owners should therefore be more clearly defined in these documents for timely maintenance and good management throughout the life cycle of buildings.

Building maintenance as a factor in building design and construction

40. The task force proposes that developers should provide safe and sound buildings and help to lay a firm foundation for future management and maintenance by:

- (a) designing and constructing buildings to be not only safe but also durable and manageable, maintainable and

environmentally friendly;

- (b) strengthening defects liability warranty to guard against structural defects for ten years, scheduled defects (eg leakage, seepage or concrete spalling) for five years and workmanship-related defects for two years, say, in the form of performance bonds backed by bank guarantee.
- (c) providing a schedule for future major maintenance works for owners' reference; and
- (d) kick-starting a maintenance reserve fund before selling the flats in the new building.

Some responsible developers with long-range vision and good market sense are already moving in this direction of their own accord.

41. Developers should be encouraged to take reference. As appropriate, Government should consider incorporating such provisions into land leases.

Building maintenance as a responsibility of developers and owners

42. The deed of mutual covenant for a building governs the relationship between property owners and building management. Land Authority's guidelines on deeds of mutual covenant aim for "fair" balance among the interests of developers, owners and managers. The task force proposes that for new buildings:

- (a) owners' responsibilities for good management and timely maintenance should be given greater emphasis in the guidelines;
- (b) owners should set aside a reasonable percentage of management fees for a maintenance reserve fund for future major repairs; and
- (c) owners should take out public liability insurance for the common parts including external finishes.

For their own peace of mind, owners should consider taking out insurance for such maintenance problems as leakage and seepage between different floors.

Maintenance reserve funds

43. A major difficulty for many owners is the sudden requirement for contribution to urgent and costly repairs. In line with the above proposal for setting up maintenance reserve funds for new buildings, the task force proposes to encourage, and if necessary to legislate for, owners of existing buildings to establish similar funds. This may be achieved by setting aside a reasonable percentage of management fees. Depending on the size and the conditions of the building or estate, such a reserve should be maintained at a level equivalent to, say, two to three months' management fees.

MARKET FORCES

44. The task force firmly believes in the effectiveness of economic considerations and market forces in motivating owners. Well maintained buildings would attract higher market value and more favourable mortgage terms or rental income. Owners' desire for enhanced property value, lower insurance premium and management fee would help to mobilize them.

45. Some have suggested classifying buildings on their standards of safety, management and maintenance. The task force supports the idea and considers a voluntary scheme viable. Owners should be encouraged to come forward for independent rating by professional and concerned bodies after repairs and maintenance.

PUBLIC EDUCATION

46. To evolve more positive attitudes, particularly among owners and occupants, the task force proposes to publicize the risk of neglect, to promote timely maintenance and to change attitudes.

47. Departments concerned should coordinate and sustain a multi-media public education programme and target clear messages for different groups such as:

- to clarify the law to owners' corporations, insurers, management companies and the public;
- to focus property owners and occupants on their responsibilities for good management, timely maintenance and proper use of buildings;
- to encourage individual owners to organize themselves to form

- owners' corporations to manage and maintain their buildings;
- to emphasize the benefits and marketability of well managed and well maintained buildings; and
- to encourage banks and lending institutions to offer mortgages for longer periods for well maintained second-hand properties.

These messages should be repeated and refreshed from time to time, to foster a culture of care for building safety and timely maintenance.

COMMUNITY PARTICIPATION

48. Success can be achieved only if all concerned in our community play their part. Property owners and occupants, the Legislature and District Councils, professionals and contractors, politicians and the media and Government must together take up the challenge of awakening a responsible concern for our built environment. In particular, District Councils have a vital role: promoting the well-being of our community is an integral part of their functions.

49. The task force proposes that District Councils be enlisted to support enforcement action, remove abandoned signboards and improve our city outlook.

CONCLUSION

50. Regular building maintenance requires effort and expense but is sound long-term investment in safe and comfortable living. It can make a dramatic difference to the quality and safety of the living environment within and around the building and avoid the need for large outlay on major repairs. It may also enhance the value of the building and attract more favourable terms from lending institutions and prospective buyers or tenants. If more building owners maintain their buildings regularly, not only would building safety be improved, the quality of life for many thousands of people in Hong Kong would be better. Achieving this is our ultimate goal.

51. Members are invited to advise on the proposals.