

LEGISLATIVE COUNCIL BRIEF

A COMPREHENSIVE STRATEGY FOR BUILDING SAFETY AND TIMELY MAINTENANCE - IMPLEMENTATION PLAN

INTRODUCTION

At the meeting of the Executive Council on 10 April 2001, the Council ADVISED and the Chief Executive ORDERED that the Administration should take forward a multi-prong strategy for building safety and timely maintenance, outlined in *paragraphs 6 to 42 below*.

BACKGROUND AND ARGUMENT

General background

2. Buildings in disrepair, unauthorised building works and abandoned signboards have been a cause for concern. Serious risk to life and limb arises from aging private buildings without proper maintenance or effective management and fraught with unauthorised building works including illegal rooftop structures. Dilapidated signboards also pose problems of public safety and scar our city outlook.

3. Buildings of reinforced concrete construction generally have a design life of 50 to 80 years. Maintenance problems often surface in buildings over 20 years old, particularly those without proper management. However, older buildings are not necessarily dilapidated or in need of redevelopment. Most of them can be repaired and maintained up to a reasonable standard.

4. According to the Buildings Department (BD), there are 42 000 private buildings territory-wide. About 11 400 of them are 20 to 40 years old and are more susceptible to maintenance problems. Some 970 new buildings are completed each year. There are 220 000 signboards and 800 000 unauthorised building works including illegal rooftop structures. Records since 1990 register over 140 major accidents related to building and fire safety, resulting in some 100 deaths and over 430 injuries.

Task force on building safety and preventive maintenance

5. Government is committed to providing a safe and healthy built environment and an attractive outlook worthy of a dynamic world-class city. In February 2000, Government set up a task force under the Planning and Lands Bureau (PLB) to formulate a comprehensive strategy –

- (a) to promote timely maintenance;
- (b) to tackle unauthorised building works including illegal rooftop structures; and
- (c) to control advertisement signboards.

The team has trawled records over the years including Executive Council notes, Hansard, views of District Boards (now District Councils), other local records, media reports and commentaries. It has also taken reference from overseas practices.

A multi-prong strategy

6. The task force has proposed a multi-prong strategy comprising different solutions for different groups of private buildings, according to both their age and condition. From November 2000 to March 2001, the task force consulted the community widely on the strategy and received 207 submissions and commentaries. Government determination is acknowledged and the comprehensive strategy warmly supported. The general consensus is that –

- (a) responsibility for maintenance and management rests with owners; and
- (b) the role of Government is to assist and support those responsible and to action against the non-compliant.

7. The Secretary for Planning and Lands will steer, co-ordinate and monitor implementation of the strategy. The main features are –

- (a) enhanced support for owners in need;
- (b) a new co-ordinated approach to enforcement;
- (c) focus on the importance of forward planning for maintenance;
- (d) devolution of authority and responsibility to building professionals and contractors as partners in building safety;
- (e) recourse to market forces and economic considerations; and
- (f) community participation and sustained public education for positive attitudes.

This is a strategy of firm action with practical assistance. Initiatives for immediate action are set out in *paragraphs 8 to 34*. Further initiatives for implementation are at *paragraphs 35 to 41*.

For immediate action – Initiatives on building maintenance

Comprehensive support for owners

8. The community generally acknowledges that property owners have responsibility for maintaining and managing their own buildings. However, many have drawn attention to the problems faced by owners and owners' corporations and their need for better guidance on handling increasingly complex maintenance issues.

Government recognises the need to give them all support practicable. In this connection, we will enhance financial, professional and management support and practical training for owners to take up their responsibility for maintenance, reduce concern among those in need and remove scope for excuses from those irresponsible.

9. On **financial assistance**, we are merging two existing funds to form a \$700-million loan fund and to extend the ambit to meet all practical requirements for improving the safety and maintenance of private buildings. Owners in hardship (eg elderly and other persons with very low income) will be given more flexible repayment terms.

10. Security should be in the form of personal guarantee for minor loans or a legal charge registrable against the title with the Land Registry for larger loans. In the light of experience for, say, two years, BD will review arrangements of the merged loan fund.

11. On **professional support**, the Director of Buildings has re-organised his department and will designate building co-ordinators, each for a pool of buildings, to serve as district-based contacts and to provide “one-stop” service for owners. In addition, BD will compile a comprehensive layman’s guide on building safety and general maintenance for publication this year. This will explain the technical aspects and the procedures for compliance with statutory orders. It will also advise on procurement of professional and technical services, model tender and contract documents, indicative information on professional fees and charges for different types of maintenance and repair works.

12. On **management issues**, the Director of Home Affairs has started to re-structure and expand her headquarters and to re-constitute outreach teams in District Offices. Comprising full-time liaison and housing management professionals with maintenance and legal advisory support in headquarters, these new district teams will provide outreach assistance to owners and owners’ corporations, respond to enquiries and mediate in case of dispute. To complement the efforts of local District Offices, the two Building Management Resource Centres will act as regional centres in referring enquiries and complaints. The Home Affairs Department (HAD) is examining the case for two more centres. It will also organise some 30 training courses for owners this year.

Pilot co-ordinated maintenance scheme

13. In November 2000, the Director of Buildings launched a pilot Co-ordinated Maintenance of Buildings Scheme to help owners and owners’ corporations in maintaining their buildings. BD will co-ordinate, with other departments, all building-related enforcement efficiently and cost-effectively to minimise hassle to them.

14. The pilot scheme operates on existing legislation under the different enforcement departments. It is an extension of BD’s concept of one-stop service through the building co-ordinators. Initially, some 150 residential and composite

buildings are included. For those within their pool, the building co-ordinators will each be responsible for –

- (a) conducting, in association with 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 owners or owners' corporation to advise them of the outcome of the survey and explain the works required and the technical issues involved;
- (c) assisting owners in need to apply for loans to fund the necessary improvement works; and
- (d) taking joint enforcement action with the relevant departments should the owners or owners' corporation not proceed with the required works within a specified period of time.

At the end of 2001, BD will assess the effectiveness of the pilot scheme for its extension or modification and the need for statutory periodic maintenance.

Maintenance reserve funds and public liability insurance

15. A major difficulty for many owners is the sudden requirement for contribution to urgent repairs and costly improvement works. Through public education and outreach efforts, we encourage owners of **existing buildings** to set up and contribute to maintenance reserve funds, say, by setting aside a reasonable percentage of the monthly management fees. We will promote the merits of taking out public liability insurance for common parts of buildings. We will later legislate such requirements for all buildings.

Measures for new buildings

16. Some developers and professionals with long-range vision and good market sense already plan and construct **new buildings** with an eye on the higher aspirations of their prospective clientele. They have taken measures to prepare for **future maintenance and management** such as –

- (a) designing buildings to be not only safe but also manageable and maintainable;
- (b) using durable and easily maintained materials and providing longer defects liability warranty;
- (c) setting out a schedule for future major maintenance works for owners' reference; and
- (d) opening an account for advance payments from buyers towards a maintenance reserve fund.

These are positive selling points that help to enhance corporate image and attract buyers, particularly prospective owner-occupiers. We have already initiated dialogue with the Real Estate Developers Association, which supports our proposals in

principle. We will continue to examine with the industry how to put the concept into effect more extensively.

17. To give clearer emphasis to owners' responsibilities for management and maintenance in **new deeds of mutual covenant**, the Lands Department is reviewing the Government guidelines. We will require owners, or the management, of new buildings to set up maintenance reserve funds for future major repairs and take out public liability insurance for common parts.

Classification of buildings

18. Professional institutes and some in the community welcome the idea of classifying buildings to bring market forces into play as encouragement for owners to take up their maintenance responsibility. Buildings attaining satisfactory standards will be rated higher and will result in better market value. We see this starting with private initiatives as a voluntary scheme for independent rating by professional institutes and associations of banks, insurance agencies and building management companies. BD will co-ordinate with other departments to set the safety and maintenance benchmarks for assessment. Ratings will be based on owners' performance and compliance with these standards. Results will be widely publicised for the information of prospective buyers and tenants.

19. Owners responsibly repairing and maintaining their building will be encouraged to come forward for assessment. A basic rating can also be assigned to buildings clearing unauthorised building works or carrying improvement works under enforcement action. We will review in the light of experience and consider legislating for a mandatory scheme.

Action against unauthorised building works

Revising the enforcement policy

20. BD has been enforcing the law against unauthorised building works in accordance with a policy established in 1988 after public consultation. This divides such works into "high priority" for enforcement and "low priority" for deferment of action. The aim is to remove risk to public safety and to curb unauthorised building works within the resources available. With changes in circumstances and increases of resources over the years, certain aspects of this enforcement policy require clarification and updating. Accordingly, we now revise the enforcement policy (as **annexed**) for **wider scope for enforcement action**.

Stepping up enforcement action

21. Since September 1999, the Director of Buildings has been conducting "**blitz**" operations to clear at one go all external unauthorised works on hundreds of buildings. This has effectively raised owners' compliance. BD will adopt this approach for major clearances, particularly those items on the external walls of buildings 20 to 40 years old and some on podiums and rooftops or in yards and lanes.

In this context, BD will increase such clearances from 500 and 600 buildings to 900 and 1 000 in 2001 and 2002 respectively. Owners not responding to advisory letters will be served with statutory orders. Those not complying with orders will be prosecuted. Where appropriate, BD will take over the works and recoup costs from the owners.

22. With the revised enforcement policy, these operations will remove **150 000 to 300 000 unauthorised building works** in five to seven years. BD will also stop **new or re-erection** promptly through commissioning special patrol teams and responding to community reports.

Introducing “minor works”

23. Under the Buildings Ordinance, enacted since 1955 and amended *ad hoc* over the years, all building works (unless exempted under the Ordinance) require the Building Authority’s prior approval of plans and consent for commencement of the works. It is therefore necessary for building professionals to be engaged for preparation and submission of the requisite plans. Otherwise, the building works would be “unauthorised” and subject to enforcement action by BD.

24. However, many “unauthorised building works” are relatively simple amenity features not provided in the original design of older buildings. These are now considered essential to daily living: eg as light-weight canopies and drying racks. Some of these pose less risk than major building works and do not require the present level of control under the Ordinance. In this light, there is scope for building professionals and contractors, as partners in building safety, to have greater authority and responsibility.

25. Building control should be commensurate with the **degree of risk** to safety. BD is drawing up a new category of “minor works” for safety certification by professionals or contractors where appropriate. BD will then be able to focus on more significant building works and on audit control. In this connection, a new register of “minor works contractors” will also be created under the Buildings Ordinance.

Strengthening deterrent

26. BD has been examining existing powers and penalties to make for more effective enforcement and stronger deterrent. We will amend the Buildings Ordinance –

- (a) to empower BD to cease illegal erection on site immediately;
- (b) to upgrade advisory letters (which most offending owners ignore) to statutory warning notices registrable against the title; and
- (c) to update penalties.

These measures are crucial to stopping the proliferation and persistence of unauthorised building works.

Removing risk from illegal rooftop structures

27. To remove the serious fire risk, BD will clear all **12 000 illegal rooftop structures on the 4 500 single-staircase buildings** within seven years. The Housing Department has agreed to rehouse affected occupants according to their eligibility and in step with BD's enforcement.

28. As stated in *paragraph 22*, BD will promptly remove **new unauthorised building works**, once identified. This applies also to new illegal rooftop structures and those found to be vacated by occupants themselves or by enforcement action.

29. Meanwhile, there will be **better inter-departmental co-ordination**. The power companies, the Rating and Valuation Department and the Water Supplies Department have worked out arrangements to collaborate more closely with BD for the identification of new illegal rooftop structures and thus their prompt removal.

30. We will amend the Conveyancing and Property Ordinance and related legislation to **make it an offence** for the owner of a rooftop area with illegal structures **to sell or let the rooftop area with illegal structures** and also to make it an offence for the estate agent and solicitor of the owner to participate in such a transaction. This aims to prohibit owners, estate agents and solicitors from participating in or facilitating, aiding and abetting such transactions and underlines the illegality of such rooftop structures.

Registration of signboards

31. Government is mindful of the attraction of signboards for Hong Kong as a "city of lights". However, to ensure public safety, we will introduce **simple self-financing** registration in the 2001-02 legislative session. New and existing signboards will be registered, with requirements for structural and fire safety commensurate with their risk to public safety including size. New signboards will also require building owners' consent, including those directly affected (eg by bright light). BD is conferring with relevant bodies to finalise dimensions for the different categories of signboards. Building professionals will be advised to include anchorage for signboards at design and construction stage, where appropriate, for new commercial or composite buildings.

32. Registration fees will recover the administrative costs. A levy, as a reasonable percentage of the registration fee, will be imposed for a fund to remove abandoned signboards. A **two-year grace period** will be given for owners of existing signboards. Unregistered signboards will be removed thereafter.

Public education and community participation

33. To promote positive attitudes, the departments concerned will collaborate and sustain a multi-media public education programme. We will drive home clear messages of owners' responsibility and merits of timely maintenance, risk

from unsafe building works and liability from illegal structures. Community participation is also crucial. Members of the public should report building safety problems. District Councils, with their role for the local well-being and environmental improvement, are well placed to join forces. In reviewing the functions of District Councils, Government will take into account the scope for strengthening their role in relation to building safety and timely maintenance.

Legislative follow-up

34. We will be putting the following legislative proposals to Members –
- (a) amending the Buildings Ordinance (*paragraphs 23 to 26*);
 - (b) amending the Conveyancing and Property Ordinance and related legislation (*paragraph 30*); and
 - (c) legislating for signboard registration (*paragraphs 31 and 32*).

Further initiatives for implementation

35. The following paragraphs outline our further initiatives for implementation.

Financial assistance for owners via owners' corporations

36. The Building Management Ordinance now specifies that owners' corporations may *inter alia* register charges against flats in certain circumstances. To prevent improvement works being delayed by irresponsible or missing owners not paying their fair share, we plan to extend the existing arrangements to help responsible and willing owners. The Ordinance should be amended to empower owners' corporations to apply for loans from the merged loan fund (*paragraphs 9 and 10*). Security for such loans would be a charge against those irresponsible and missing owners' titles. Implementation details will include checks and balance against abuse and appropriate monitoring mechanism.

Registration of building management companies

37. Proper management is essential to ensure continuing care of buildings. To assure owners of quality management services, we plan to register professional building management companies. This may be in the form of –

- (a) self-regulation with close community monitoring (eg Surveyors Registration Ordinance, Engineers Registration Ordinance and Architects Registration Ordinance); or
- (b) registration by a Government department (eg Authorised Persons/Registered Structural Engineers/contractors registered under the Buildings Ordinance).

We will consider operational arrangements and registration parameters (eg qualifications, expertise, experience, service record and financial standing).

Preparing for maintenance

38. If owners of **existing buildings** do not prepare for maintenance, we will introduce legislation (*paragraphs 14 and 15*).

39. On measures for **new buildings**, we are in discussion with the industry (*paragraph 16*). We will consider appropriate provisions in land leases for a number of “pilot” sites.

Owners’ declaration

40. A suggestion for requiring owners, before transfer of title, to appoint professionals to certify that their property carries “no unauthorised building works on external walls” has been criticised as impinging on property rights and incurring expense to owners (particularly those without unauthorised building works). To minimise costs to owners, particularly those without unauthorised building works, we are now considering **self-declaration by owners**.

41. Meanwhile, the Law Reform Commission has consulted the public on its sub-committee’s recommendations for providing fuller information to property purchasers. These include a Vendor’s Information Form with a statement on structural additions and alterations. We will follow up as appropriate.

Outcome of the strategy

42. With the implementation of the comprehensive strategy, we should be able within seven years –

- (a) to improve the safety, condition and outlook of buildings 20 to 40 years old including removal of unauthorised building works;
- (b) to clear the illegal rooftop structures on all single-staircase buildings;
- (c) to regulate and control all signboards;
- (d) to raise community awareness of unauthorised building works as a liability; and
- (e) to enhance appreciation of the benefits of timely maintenance.

Implementation of the strategy will also provide a range of training and employment opportunities for our workforce.

FINANCIAL AND STAFFING IMPLICATIONS

43. The 2001-02 Estimates provides \$193 million as part-year provision to different bureaux and departments, in particular BD and HAD. BD is allocated \$167.1 million for additional staff and for outsourcing some of its work to the private sector. For HAD, \$22.5 million will facilitate the expansion of its headquarters and establishment of district outreach teams. From 2002-03, the full-year provision for

the departments concerned will be \$249 million. In addition, a sum of \$9 million has been earmarked for publicity and community education over 2001-04.

44. BD is trying out different modes of outsourcing its work to the private sector to enhance cost-effectiveness. Where possible, the departments concerned will also re-deploy existing resources and review operational practices to maximise the resources available.

ECONOMIC IMPLICATIONS

45. In many of the unauthorised building works, the primary motivation for the erection is to enlarge the effective usable area of the premises concerned. Considering the level of property prices in Hong Kong, the incentive for doing so is clearly strong, as valuable additional space could be created for the property owner or user at a relatively modest construction cost. The prevalence of this incentive with the existing private residential premises has led to the widespread incidence of such unauthorised works particularly in those buildings where management is lax and the common interest amongst the owners for preserving the integral form of the building is weak, ie typically with the old buildings in the older and densely populated areas.

46. The comprehensive strategy includes public education, community participation and the enhanced support for owners as important ingredients. Complementing these are enforcement and penalties as necessary deterrent. It could render a solution to this incentive problem: highlighting to property owners the benefit to the overall value of the property that could be brought about by a concerted move to tackle those unauthorised external structures.

47. In general, a sustained programme of building maintenance will have a positive impact not only on the property market by helping to preserve the value of the existing building stock. It will also benefit the community at large through improvement to building safety and living conditions and by reducing risk to life and limb. This will have beneficial spin-off beyond the occupants involved. The stepping up of building maintenance should also give rise to additional business and employment for the building and construction industry.

ENVIRONMENTAL IMPLICATIONS

48. Disrepair, dilapidation and existence of unauthorised building works are often major factors contributing to environmental nuisance and hygienic problems in our older urban areas. The implementation of the strategy, in particular launching major clearances of unauthorised structures on the exterior of buildings, on podiums and rooftops and in yards and lanes, will make our living environment safe, healthy and attractive. Measures to promote long-term maintenance and management of buildings, in the long run, will also extend the service life of buildings and reduce the need for premature demolition.

49. Large-scale clearances of illegal structures in the years ahead will generate construction and demolition materials. To minimise the pressure to landfills,

we will advise owners and contractors to adopt mitigation measures including waste separation and recycling.

50. It is also possible that about 20 to 30 % of the unauthorised structures in buildings 20 to 40 years old contain asbestos. Removal of these structures may result in release of asbestos fibers unless materials containing asbestos are properly removed. We will advise owners and contractors to comply with environmental legislation in the clearance operations, particularly in case of removal of materials containing asbestos, and step up enforcement as appropriate.

PUBLIC CONSULTATION

51. Since November 2000, we have consulted Members, the Land and Building Advisory Committee and all 18 District Councils. We have also contacted more than 50 professional institutes and representative groups, media members and some 9 000 owners' corporations, mutual aid committees and similar associations. A total of 74 discussion sessions have been arranged and 207 submissions and commentaries (by post or fax, via internet and hotline and through the media) collected.

52. The community at large, members of the Legislative Council and District Councils and political parties have supported the proposed strategy in general. Most of the initiatives have been welcomed; some, hailed as overdue. The multi-prong approach to tackle long-standing maintenance problems and unauthorised structures and to give comprehensive support for owners in taking up their responsibility has been warmly welcomed.

PUBLICITY

53. A press conference and appropriate publicity programmes will be arranged to announce the implementation plan of the comprehensive strategy. Further publicity will be arranged when individual administrative or legislative proposals are set in motion.

54. Multi-media public education will be sustained to convey clear messages to different groups in our community to foster a culture of building care.

Planning and Lands Bureau
20 April 2001

Revised Enforcement Policy against Unauthorised Building Works

The revised enforcement policy against unauthorised building works (*as indicated in italics*) will re-focus priorities and broaden the scope for enforcement action. Resources will be directed to the removal of:

- (a) items constituting obvious or imminent danger to life or property;
- (b) *new items, irrespective of the date of completion of the building where they have been carried out;*
- (c) *items in or on buildings, on podiums and rooftops, in yards and lanes (including unauthorised site formation works) constituting a serious hazard or a serious environmental nuisance, as determined by the Building Authority;*
- (d) *major individual items;*
- (e) *items in or on individual buildings with extensive unauthorised building works;*
- (f) *items identified in buildings or groups of buildings targeted for large-scale operations or maintenance programmes; and*
- (g) *unauthorised alterations to or works in environmentally friendly features of a building (eg balconies, sky or podium gardens) for which exemption from calculation of gross floor area has been granted by the Building Authority.*

On other items, the Buildings Department will issue the proposed statutory warning notices registrable against property title.