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By Fax (2899 2916) and By Post

11 February 2008

Mr Jerry CHEUNG
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Dear Mr CHEUNG

Buildings (Amendment) Bill 2007 (the Bill)

I refer to your letter dated 27 December 2007 and the Administration's elaboration on the Bill relating to the implementation of the minor work control system at the meeting of the bills committee on 26 January 2008. As details of the system is to be set out in the regulations to be supplied to the bills committee later, I can only rely on the information supplied by the Administration in the LegCo Brief and the Administration's response to queries raised in the scrutiny of the Bill to comment on the system.

Registration of the Registered Minor Works Contractors (RMWCs) and the Transitional Arrangement

Paragraph 7 of the LegCo Brief mentioned that "The contractors who apply for registration as RMWCs may be body corporates, partnerships or sole proprietorships and have to satisfy the Building Authority (BA) that their personnel possess the necessary technical qualifications and work experience before they could be registered under the Building Ordinance (BO)."... "Regardless of whether the RMWC is a company or an individual, the contractor needs to perform the same duties and bear the same obligations and responsibilities under the minor works control system."

Paragraph 9 of the LegCo Brief mentioned that "A registration system will be established for RMWCs under the BO by way of regulations. Existing minor works practitioners may apply for registration as RMWCs for the relevant classes, types or items of minor works as appropriate according to their qualifications and experience. A transitional period and a provisional registration arrangement will be put in place to allow adequate time for the existing minor works practitioners to prepare for registration."

Your letter mentioned that "The main objective of establishing a provisional register for minor works contractors is to enable contractors operating as companies in the market to continue with their business immediately after commencement of the new minor works control system."... "We do not intend to establish a provisional register for Class III contractors operating as self-employed individual."

Please clarify:

- (a) It appears that there is no distinction among the existing minor works practitioners in the LegCo Brief. Body corporates, partnerships or sole proprietorships can apply for registration as RMWCs and the provisional registration arrangement will apply to all existing minor works practitioners. On the other hand, the "companies" you mentioned in your letter seems refer to limited companies which have their own legal entity and can apply to be registered in the provisional register while a self-employed individual cannot do so. How about a partnership? Is "the self-employed individual" the same as the "sole proprietorships" mentioned in the LegCo Brief? Please account for the different treatments in application for registration as RMWCs for a limited company, a partnership and an individual.
- (b) Whether the provisional registration will apply to all classes of minor works?
- (c) The Administration's plan relating to the provisions providing for the provisional register which will not exist when the two-year transitional period expires.

Implementation of the Validation Scheme

Paragraph 19 of the LegCo Brief mentioned that the Administration will introduce a validation scheme as part of the minor works control system to rationalize three types of building works of a minor nature, namely, supporting frames for air conditioners, drying racks and small canopies.

Under the proposed section 39C, the Building Authority shall not serve

an order under section 24 or a notice under section 24C of the BO in respect of "prescribed building or building works" completed or carried out before the commencement date of the provision if the prescribed requirements have been complied with.

It appears that the three types of works mentioned in the LegCo Brief are unauthorized building works under the existing BO, and shall continue to be unauthorized works unless the requirements prescribed under the proposed section 39C have been complied with. However, I note that the Administration informed the bills committee that owners of these three types of unauthorized works could postpone to validate them until the premises underwent major repair work. Please clarify:

- (a) It appears that the validation scheme will cover unauthorized works other than the three types mentioned in the LegCo Brief. Please confirm.
- (b) Whether these unauthorized works involve the structure of the premises.
- (c) The commencement date of the validation scheme.
- (d) The enforcement against the unauthorized works prescribed under the proposed section 39C if it does not commence to operate at the same time as the minor works control system.
- (e) In the light of the Administration's policy that the owners can postpone to validate the unauthorized building works until their premises undergo major repair, the enforcement of the BO against such unauthorized works if the owners do not arrange for compliance of the prescribed requirements upon the commencement of the proposed section 39C. Whether the plan for the premises to undergo major works can amount to a defence?

It is appreciated that your reply in both Chinese and English could reach us by close of play, 18 February 2008.

Yours sincerely

(Monna LAI)
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