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**Panel on Development**

**Meeting on 20 January 2009**

**Background brief on Mandatory Building Inspection Scheme  
and Mandatory Window Inspection Scheme**

**Purpose**

This paper provides background information on the proposed Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS), and summarizes the views and concerns expressed by members during the relevant discussions by the Panel on Development (formerly known as "Panel on Planning, Lands and Works").

**Background**

2. According to the Administration, there are about 15 000 private buildings aged 30 or above and the number is estimated to rise to 22 000 in the next 10 years. In order to formulate a practicable policy to tackle the building neglect problem, the Administration has carried out a two-stage public consultation on building management and maintenance.

3. The results of the first-stage public consultation conducted in early 2004 pointed to a community consensus that owners should be responsible for keeping their buildings in good repair, including shouldering the financial commitment. The community also indicated support for the introduction of a MBIS as a practicable long-term solution to the problem of building neglect.

4. The second-stage public consultation was conducted in late-October 2005 to gauge public views on specific implementation details of the proposed scheme, including the age threshold of target buildings, length of the inspection cycle, inspection items, building inspectors, enforcement, dispute resolution mechanism and proposal for establishing a Voluntary Building Classification Scheme etc. Many views and suggestions were gathered on these

areas. Besides, there was a clear community sentiment that the Government should take action to enhance window safety in the long run.

5. At the Panel meeting on 22 May 2007, the Administration presented the results of the consultation exercise and the proposal to put in place MBIS and MWIS by way of legislation. According to the Administration, the proposed schemes would ensure building and public safety, enhance the overall built environment, promote a building care culture in society, create employment opportunities, and generate economic benefits for building owners as well. The Panel further discussed the proposal with the Administration at the meeting on 24 July 2007. The then intention of the Administration was to introduce the legislative proposals into the Legislative Council by early 2008, or at the beginning of the 2008-2009 legislative session.

6. At the beginning of the 2007-2008 legislative session, the Administration advised that while drafting of the legislation on the two proposed schemes was underway, the Administration intended to discuss with Panel members on the operational aspects of the schemes before introduction of the proposed legislation. On 24 June 2008, the Administration consulted the Panel on three operational aspects, namely, criteria and mechanism for selection of target buildings, list of inspection items and operational procedures of the schemes. The list of proposed inspection items under MBIS is at **Appendix I**.

### **Deliberations of the Panel**

7. During the Panel discussions, members in general were supportive of the policy direction of the two proposed schemes. The major concerns and views expressed by members were summarized in the ensuing paragraphs.

#### Financial and technical assistance for owners in need

8. Members were concerned about the adequacy of the financial and technical assistance available to owners in need, in particular elderly owners. The Administration advised that the Hong Kong Housing Society (HKHS) had agreed to set aside \$4 billion to complement the launch of the schemes by providing financial and technical assistance to eligible building owners. In addition to providing subsidies for first inspections, HKHS would offer grants or interest-free loans to eligible owners for carrying out rectification works. HKHS would also give technical assistance to owners regarding inspection and maintenance matters. The Buildings Department (BD) would also provide loans to owners to carry out building maintenance under its Building Safety Loan Scheme. In respect of elderly owners, HKHS would be flexible in addressing their concerns on a case-by-case basis. Under BD's Building Safety Loan Scheme, elderly owners who were unable to repay the loan could apply for

extension of the repayment period, or be allowed to repay the loan after their properties were sold.

9. According to the supplementary information provided by the Administration in August 2007, under HKHS's existing voluntary Building Management and Maintenance Scheme (BMMS), buildings with an average rateable value per residential unit of not exceeding \$78,000 per annum for urban properties and \$59,000 per annum for New Territories properties are eligible for receiving its financial assistance. Currently, over 11 000 buildings (or 85% of the buildings aged 30 or above) are covered by BMMS. HKHS will adopt similar eligibility criteria in future when providing financial assistance to owners to support the implementation of MBIS.

#### Supply of Registered Inspectors and standard of their services

10. Members were concerned about the supply of Registered Inspectors (RIs) for the building inspection work under MBIS, and pointed out that if the pool of RIs was too small, the number of maintenance works projects that could be carried out within a specific timeframe would be few and maintenance costs would be expensive.

11. The Administration advised that under the present proposal, in addition to Authorized Persons and Registered Structural Engineers, other registered professionals in the relevant fields with relevant experience would be eligible for registration as RIs. The Administration was consulting relevant professional organizations in this regard. It was estimated that there were some 5 000 qualified professionals. Assuming a 50% registration rate of the 5 000 qualified professionals, there would be around 2 500 to 3 000 RIs and this would be sufficient for 2 000 target buildings each year. As there would be sufficient competition, inspection costs would not be unreasonable.

12. Taking note of the breadth and stringency of the requirements under MBIS, members also expressed concern on whether RIs would be able to carry out a comprehensive inspection capable of identifying hidden or potential problems if the fees they received were on the low side. The Administration advised that the fees for appointing RIs would be set by the market rather than the Administration. RIs would carry out their work in accordance with professional standards and the guidelines and practice notes drawn up by the Administration. Complaints from owners or deviations from the standards would be handled accordingly by the Administration and professional organizations.

#### Problems relating to unauthorised building works

13. On the Administration's indication that it would not remove all unauthorized building works (UBWs) of the target buildings under MBIS, but

would continue to adopt the existing policy of prioritizing the removal of UBWs based on safety factors, some members considered it unsatisfactory because UBWs might obstruct maintenance works. Members pointed out that owners' corporations (OCs) might face difficulties when requesting some uncooperative owners to clear their UBWs, and the timing of issuing removal orders for some UBWs might not tie in with the maintenance schedule of the buildings.

14. The Administration advised that as the clearance of UBWs such as illegal rooftop structures might invite strong objections and involve rehousing of the residents, to dovetail the clearance of UBWs with mandatory building inspection might create unnecessary obstacles to the smooth implementation of MBIS. However, BD would be given flexibility in responding to reports on UBWs made during mandatory building inspections. RIs had to report the details of UBWs identified during the inspection under MBIS to the Building Authority. As synchronization of the timing of issuing removal orders for UBWs with the maintenance schedule of the buildings would reduce the total costs required, BD would, where possible, try to complement OCs in this regard.

15. In this connection, some members expressed concern about the insufficient staffing of BD and that since a large portion of BD's staff were non-civil service contract staff, the staff morale might be affected. The Administration took note of the concern and agreed to consider measures to alleviate the situation.

#### Coordination with the Urban Renewal Authority

16. Members pointed out that as the target buildings might also be potential buildings for redevelopment by the Urban Renewal Authority (URA), there should be good coordination between MBIS and URA's work to avoid the situation where some buildings might be included in URA's redevelopment projects shortly after maintenance works had been carried out, or where some owners refrained from carrying out maintenance works for their buildings in anticipation of redevelopment but those buildings were not included in URA's redevelopment projects in the end.

17. The Administration assured members that it would ensure good coordination with URA to avoid subjecting buildings under URA's planned redevelopment projects to MBIS.

#### Penalty arrangement

18. Members considered that the proposed penalty arrangement should be carefully drawn up to avoid creating undue hardship to owners or OCs. The Administration advised that the penalties would target at uncooperative owners, such as those who deliberately obstructed the necessary inspection or

maintenance works without reasonable excuses. The Administration would work out the appropriate penalty level during the legislative drafting process.

#### Dispute resolution mechanism

19. Some members suggested that a simple dispute resolution mechanism which dispensed with legal representation should be established to handle disputes on building management and maintenance to save the cost and time required to settle such disputes.

20. The Administration explained that since the proposal to dispense with legal representation might possibly give rise to constitutional and human rights implications, and might duplicate the roles and duties of existing judicial courts and tribunals, the Government needed to further study the feasibility of the proposal. The Administration also advised that the Judiciary was considering possible improvement measures to the Lands Tribunal, including the greater use of case management and the feasibility of voluntary mediation, to facilitate a more efficient and expeditious disposal of building management and maintenance cases in the Tribunal.

#### **Latest developments**

21. The Administration intends to introduce to members further operational details of the proposed MBIS and MWIS at the Panel meeting on 20 January 2009.

#### **Relevant papers**

22. A list of relevant papers is shown at **Appendix II** of this paper.

## List of Inspection Items under the MBIS

Elements	Items to be covered
External Elements and Other Physical Elements	<p>External finishes, fixtures, installations and appendages to the external walls, regardless of whether they belong to co-owners or individual owner. Examples are:</p> <ul style="list-style-type: none"> <li>(i) external finishes such as tiling and rendering;</li> <li>(ii) louvers (common parts);</li> <li>(iii) cladding, curtain wall and skylight; and</li> <li>(iv) appendages, including racks, awnings, planters, air conditioner hoods or platforms, eaves, mouldings, projections, architectural features, drying racks, railings, signboards and television-screen type signboards on external walls.<sup>1</sup></li> </ul> <p>Other physical elements should include the following<sup>2</sup>:</p> <ul style="list-style-type: none"> <li>(i) finishes, stone cladding and false ceiling in common corridors and lobbies; and</li> <li>(ii) manually operated metal gates of substantial size.</li> </ul>
Structural Elements	<p>Structural elements in the common parts of the main building and all other ancillary building structures within the lot boundary, such as elevated driveways, bridging structures, club house, guard house, swimming pool including filtration plant room etc. Examples are: columns, walls, beams, slabs, staircases, water tanks, suspended manholes, parapets and balustrades, screen walls, basement walls, hanging structures, cantilevered projecting structures and transfer structures.</p>
Fire Safety Elements	<p>Fire safety provisions in the common parts and exterior parts of a building, including means of escape; means of access for fire fighting and rescue; fire resisting construction and compartmentation in common parts</p>
Drainage System	<ul style="list-style-type: none"> <li>(i) Drainage pipes located at external walls of the building;</li> <li>(ii) drainage pipes in common parts including those at slope etc within the lot boundary;</li> </ul>

<sup>1</sup> Unauthorized/abandoned signboards erected in common areas and at the exteriors (including balconies) of the buildings are to be identified and reported to BD in the course of building inspection. BD will tackle unauthorized/abandoned signboards under its separate enforcement scheme.

<sup>2</sup> Other physical elements should not include retaining structures and slopes.

Elements	Items to be covered
	(iii) drainage pipes laid within common pipe ducts; and (iv) underground common drainage system.
Unauthorized Building Works (UBWs)	All UBWs in the common areas and exterior parts as well as those on the external ground, open space, gardens, playground, private streets and access roads, earth retaining structures, slopes, etc. are to be identified and reported to BD in the course of building inspection.  In accordance with BD's existing policy on removal of UBWs, BD will issue separate statutory orders to demand removal of UBWs constituting an obvious or imminent danger, obstructing inspection/rectification works or falling under BD's priority enforcement items.

*Remark:* The detailed standards and requirements of inspection and rectification works to be followed by registered inspectors and contractors will be stipulated by BD in the form of codes of practice. We will seek Members' views on the regulation of service providers under the MBIS at a later stage.

## Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme

### List of relevant papers

Council/ Committee	Date of meeting	Paper
Planning, Lands and Works (PLW) Panel	27 January 2004	<p>Information paper on "Safety of Aluminium Windows of Building" provided by the Administration (LC Paper No. CB(1)830/03-04(01))  <a href="http://www.legco.gov.hk/yr03-04/english/panels/plw/papers/plw0127cb1-830-1e.pdf">http://www.legco.gov.hk/yr03-04/english/panels/plw/papers/plw0127cb1-830-1e.pdf</a></p> <p>Minutes of meeting (LC Paper No. CB(1)1313/03-04)  <a href="http://www.legco.gov.hk/yr03-04/english/panels/plw/minutes/pl040127.pdf">http://www.legco.gov.hk/yr03-04/english/panels/plw/minutes/pl040127.pdf</a></p>
PLW Panel	22 May 2007	<p>Information paper on "Public Consultation on Mandatory Building Inspection" provided by the Administration (LC Paper No. CB(1)1643/06-07(03))  <a href="http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0522cb1-1643-3-e.pdf">http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0522cb1-1643-3-e.pdf</a></p> <p>Minutes of meeting (LC Paper No. CB(1)2122/06-07)  <a href="http://www.legco.gov.hk/yr06-07/english/panels/plw/minutes/pl070522.pdf">http://www.legco.gov.hk/yr06-07/english/panels/plw/minutes/pl070522.pdf</a></p>

<b>Council/ Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
PLW Panel	24 July 2007	<p>Information paper on "Mandatory Building Inspection Scheme &amp; Mandatory Window Inspection Scheme" provided by the Administration (LC Paper No. CB(1) 2148/06-07 (01)) <a href="http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0724cb1-2148-1-e.pdf">http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0724cb1-2148-1-e.pdf</a></p> <p>Minutes of meeting (LC Paper No. CB(1)2148/06-07 <a href="http://www.legco.gov.hk/yr06-07/english/panels/plw/minutes/pl070724.pdf">http://www.legco.gov.hk/yr06-07/english/panels/plw/minutes/pl070724.pdf</a></p> <p>Letter dated 24 August 2007 from the Administration on to the Panel (LC Paper No. CB(1)2299/06-07(01)) <a href="http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0724cb1-2299-1-e.pdf">http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0724cb1-2299-1-e.pdf</a></p>
Development Panel	24 June 2008	<p>Administration's paper on Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme - Target buildings, inspection items and operational procedures (LC Paper No. CB(1)1602/07-08(05)) <a href="http://www.legco.gov.hk/yr07-08/english/panels/plw/papers/dev0624cb1-1602-5-e.pdf">http://www.legco.gov.hk/yr07-08/english/panels/plw/papers/dev0624cb1-1602-5-e.pdf</a></p> <p>Minutes of meeting (LC Paper No. CB(1)2322/07-08) <a href="http://www.legco.gov.hk/yr07-08/english/panels/plw/minutes/de080624.pdf">http://www.legco.gov.hk/yr07-08/english/panels/plw/minutes/de080624.pdf</a></p>