

香港特別行政區政府

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20 May 2010

Mr WONG Siu-yee
Clerk to Bills Committee
Legislative Council Building
8 Jackson Road, Central

Dear Mr WONG,

**Bills Committee on Buildings (Amendment) Bill 2010
Administration's Response to Follow-up Issues**

In response to Members' discussions at the previous meetings of the Bills Committee on the Buildings (Amendment) Bill 2010 (the Bill), I am pleased to provide further information in relation to the matters about which Members enquired.

Subsidy on First Building Inspection Fee

At the meetings of the Bills Committee on 19 April 2010 and 6 May 2010, Members requested the Administration to provide further information on the subsidy on the first building inspection fee.

We have secured the commitment of the Hong Kong Housing Society (HKHS) and Urban Renewal Authority (URA) for the provision of full subsidy, subject to a cap, to eligible owners for the first-time (i.e. first time participating in the inspection) building inspection under the Mandatory Building Inspection Scheme (MBIS).

Regarding the eligibility criteria, our agreement with the two supporting organisations is to follow those being adopted in the HKHS' current Building Management and Maintenance Scheme, i.e. –

- (a) the building concerned is a private residential or composite (partly residential and partly commercial) building;
- (b) the average rateable value of the residential units does not exceed \$100,000 per annum for a building in urban areas (including Hong Kong Island, Kowloon, Shatin, Kwai Tsing and Tsuen Wan) or \$76,000 per annum for a building in other areas. The amount will be reviewed from time to time;
- (c) the building comprises no more than 400 residential units; and
- (d) the building has been served with a statutory notice under the MBIS by the Buildings Department (BD).

The subsidy will be pitched at a level adequate to cover the full cost of general inspection of the common parts of the buildings, subject to a cap¹ on the subsidy amount according to the number of residential units of the buildings. Eligible owners may apply for further assistance under other schemes, such as the “Building Maintenance Grant Scheme for Elderly Owners” and “Comprehensive Building Safety Improvement Loan Scheme”, if necessary.

The HKHS and URA plan to reserve funding adequate to cover applications for the first seven years after the commencement of the MBIS. In parallel, we are exploring how to consolidate the various schemes administered by the different implementation agencies to streamline the modus operandi so that they can better meet the needs of building owners.

Service of Property Management Advisory Centres of HKHS

At the meeting of the Bills Committee on 19 April 2010, Members commented on the services of the HKHS' Property Management Advisory

¹ For the determination of the cap, we will make reference to the fee levels for building inspection in the market in consultation with the relevant professional institutes.

Centres (PMACs). We have conveyed Members' comments to the HKHS for consideration.

According to the HKHS, currently, the opening hours of the meeting rooms of the PMACs which owners' corporations (OCs) may borrow are from 10 am to 6:30 pm from Monday to Wednesday, from 10 am to 10 pm on Thursdays and Fridays, and from 10 am to 6 pm on Saturdays. In fact, utilisation of the meeting rooms of the PMACs has not yet reached saturation. For example, from January to March 2010, the average utilisation rates of the two PMACs in Central and Western Districts were 14% and 4% respectively. During peak hours (i.e. from 6 pm to 10 pm on Thursdays and Fridays), the average utilisation rates were 31% and 21% respectively. Nevertheless, with a view to further enhancing the PMACs' services, the HKHS has launched a three-month trial since 10 May 2010 where the meeting rooms of the two PMACs in Central and Western Districts would extend its service hours to open from 10 am to 10 pm from Monday to Friday and 10 am to 6 pm on Saturdays. The HKHS will review the utilisation of the meeting rooms of these PMACs after the three-month trial.

Experience of Promotion of Anti-Tender-Rigging Practices

At the meeting of the Bills Committee on 19 April 2010, Members requested the Administration to provide further information on the measures taken against tender-rigging activities in Operation Building Bright (OBB).

Under OBB, the HKHS and URA, with the expert advice from the Independent Commission Against Corruption, have formulated guidelines and operational procedures for applicants and building professionals/contractors to follow. In coordinating and implementing maintenance works under OBB, the OCs of target buildings as well as consultants and contractors must follow the guidelines and requirements. The HKHS and URA have respectively appointed independent professional consultants to monitor the cases. If the HKHS and URA identify any non-compliance or irregularities, they will notify the OCs and ask for rectifications. The HKHS and URA will ensure that the proper procedures have been followed before they disburse grants to the OCs.

Members have asked for examples and nature of cases where the engagements of consultants/contractors appointed by building owners were

re-considered by owners because of violation of OBB's requirements. We have sought information from the HKHS and URA about such cases. Several cases involved the disclosure of the names and/or contacts of the consultants in the expression of interest advertisements. To ensure an open and impartial tendering process and avoid tender-rigging, such practice is not allowed in OBB. Some other cases were about imposing pre-qualification and additional selection criteria upon the contractors drawn from the HKHS' list without owners' approval and collection of administration fee from tenderers. The inclusion of additional contractors from the HKHS' list on top of the owners' invitation list is a measure adopted in OBB to promote more open tendering and avoid tender-rigging. All potential tenderers must be treated equally and fairly in the process. The HKHS and URA have issued notices to alert the OCs of these cases. Rectification actions are being taken in all the cases, among which several OCs have decided to terminate the service contracts with their appointed consultants. The HKHS and URA will continue their follow-up actions on the cases.

We will collate such good practices and case examples, and share our experiences in OBB with building owners. We will remind and encourage them to adopt proper and adequate tendering procedures when conducting inspection and repair works for the MBIS/Mandatory Window Inspection Scheme (MWIS).

Exclusion of Domestic Buildings not Exceeding Three Storeys in Height

At the meetings on 19 February 2010 and 19 April 2010, further to the discussion of our previous reply of 18 March 2010 (LC paper CB(1)1417/09-10(02)), Members asked the Administration to provide further information in relation to the exclusion of domestic buildings not exceeding three storeys in height from the MBIS and MWIS.

Under our proposal, only domestic buildings that do not exceed three storeys in height will be exempted. All non-domestic buildings (such as warehouses, shopping malls, etc) will fall within the scope of the MBIS and MWIS, irrespective of their height. These buildings require more stringent inspection and repair than domestic buildings because of their usage, relatively larger size and bigger number of occupants.

The proposed exclusion of domestic buildings not exceeding three storeys in height from the MBIS and MWIS is formulated based on the assessment of the BD, taking into account the characteristics, development and distribution of buildings in Hong Kong, and after making reference to overseas practices. In general, domestic buildings not exceeding three storeys in height pose a lower risk to public safety. There are generally fewer occupants in such buildings, the structural designs are usually simpler and there is generally more redundancy in terms of material strength and serviceability requirements. Such buildings are usually singly-owned and hence generally better maintained. Their usual location being in suburban areas and their smaller height also pose a lower risk to public safety.

Our assessment is evidenced by the number of repair orders issued by the BD as well as the number of complaints received against such buildings. Relevant statistics for 2008 and 2009 are shown in the table below. The number of repair orders issued and complaints received against domestic buildings not exceeding three storeys in height is much lower than that for all private buildings –

	All private buildings	Domestic buildings not exceeding three storeys (as a percentage of all private buildings)
No. of buildings (A)	41 000	13 000 (31.7%)
No. of complaints on defective or dangerous buildings received (B)	10 760	217 (2.0%)
No. of complaints as a percentage of no. of buildings (C = B/A)	26.2%	1.7%
No. of repair orders issued (D)	2 070	27 (1.3%)
No. of repair orders as a percentage of no. of buildings (E = D/A)	5.0%	0.2%

We have also researched into the experience of the mandatory building inspection scheme in New York City, and made enquiries to the Department of Buildings of the City. We understand that New York City introduced mandatory building inspection in 1980 in response to a few accidents that brought attention to façade maintenance of taller buildings. The New York City Council had conducted a number of public hearings and decided that the statutory requirement should apply to buildings taller than six storeys. The scope of the statutory requirement was also extended from street-facing façades of buildings to all façades of buildings in 1998 (note: our proposed MBIS will cover all façades as well). We have separately learnt that while there are about 950 000 buildings in New York City, there are only around 12 500 buildings (less than 2%) taller than six storeys. The City's mandatory building inspection scheme is probably only meant to focus on a relatively small number of tall buildings in the metropolitan area. In comparison, our proposed scheme in Hong Kong will have a much wider coverage.

For buildings not covered by the two mandatory schemes (either have not reached the age limit or are domestic and do not exceed three storeys), the BD will continue to monitor their safety conditions and take action under the existing provisions of the Buildings Ordinance (Cap. 123) to ensure their safety. For example, the Department has a regular inspection programme for pre-war buildings to closely monitor their conditions.

Yours Sincerely,

A handwritten signature in black ink, appearing to be 'Harry Lin', written in a cursive style.

(Harry LIN)

for Secretary for Development

c.c. DD/BD
LD/DoJ