

香港特別行政區政府

**The Government of the Hong Kong Special Administration Region**

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3 December 2010

Mr Stephen LAM  
Clerk to Bills Committee  
Legislative Council Building  
8 Jackson Road, Central

Dear Mr LAM,

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

In response to the discussion at the meeting of the Bills Committee on the Buildings (Amendment) Bill 2010 (the Bill) on 9 November 2010, I am pleased to provide below information in relation to the matters about which Members enquired.

Carrying out of Inspection and Repair Works in Common Parts

Members requested the Administration to consider alternatives to assist owners' corporations (OCs) in cases where some of the owners refuse to share the cost of the required inspection and repair works.

As explained at the aforementioned meeting, a direct approach to assist OCs where works could not be commenced due to organisation problems is for the Buildings Department (BD) to engage Government contractors to conduct the works on behalf of the owners upon default and then recover the costs from the owners at a later stage. Such approach has been adopted by the BD in handling default orders under the Buildings Ordinance (Cap. 123) (BO)

and has been effective. It has also been used in assisting Category 2 buildings in the Operation Building Bright (OBB) and the effectiveness has once again been proven. The Department has gained a lot of practical experience in assisting co-owners in buildings with organisation problems (both with and without OCs) from the Operation.

In handling the future Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS), in line with the direction of our new package of measures to enhance building safety in Hong Kong, the BD is prepared to conduct default works on behalf of owners more readily. Where a notice served under the proposed section 30B(3), (4), (5) or (6) or 30C(3) or (4) in clause 19 of the Bill is not complied with (in default), the BD will swiftly, under the proposed sections 30B(10) and 30C(8) in clause 19 of the Bill, carry out or cause to be carried out the inspection and repair works on behalf of the owners and subsequently, under section 33 of the BO, apportion the cost and recover the apportioned cost from each of the owner. Before doing so, our partner organisations, the Hong Kong Housing Society and Urban Renewal Authority, will offer technical advice and assistance to the OCs with a view to facilitating the owners to resolve their problems so that they can carry out the works themselves. For those owners with financial needs, the Government and our partner organisations offer a full range of financial assistance schemes, from grants to loans up to \$100 million, to help them inspect and repair their buildings.

The above arrangement will ensure timely completion of necessary inspection and repair works of buildings in case of default to ensure public safety. Alongside with the full-range of technical and financial assistance schemes provided to owners, there are adequate incentives and support measures to help owners and OCs fulfill the requirements of the statutory notices. We do not see the need to establish a separate dispute resolution mechanism for MBIS/MWIS.

#### Penalty Against Uncooperative Owners

To provide deterrence against uncooperative owners for their refusal to fulfil their own responsibilities and hindering the work of the OCs, we proposed in the Bill criminal penalty, including a fine at Level 3 (\$10,000) and

imprisonment of six months, on an owner who, without reasonable excuse, refuses to contribute to his share of cost of inspection or repair works that is required by the OC for the purpose of complying with the statutory notices under MBIS/MWIS. We are mindful of Members' concern on the proposed penalties, in particular the imprisonment involved. As we explained in our previous reply of 8 November 2010 (paper no. CB(1)367/10-11(01)), the criminal penalty was proposed based on community comments obtained during the two-stage public consultation in 2003 and 2005 that appropriate penalties should be imposed against uncooperative owners. On balance, we consider it necessary to retain a significant deterrent effect against uncooperative owners in the legislation. We would therefore propose to remove the imprisonment terms but increase the proposed fine to Level 4 (\$25,000). We would be grateful to hear Members' views. Should the BD be required to carry out default works on behalf of the OCs due to certain owners' refusal to pay their share of costs, the Department will consider taking prosecution action against such irresponsible owners.

#### Prescribed Inspection and Prescribed Repair

At the aforementioned meeting of the Bills Committee, Members requested the Administration to explain further the details of the prescribed inspection and prescribed repair.

As explained in our previous paper entitled "Subsidiary Legislation and Practice Notes" (paper no. CB(1)1983/09-10(02)), we will include the details of the prescribed inspection and prescribed repair in the regulation. The key content is as follows (exact wording being worked out) –

- (a) *Scope of prescribed inspection and prescribed repair* – details of items subject to prescribed inspections and repairs, including building structures (e.g. columns, walls, beams, slabs, staircases and their finishes etc), external walls and associated elements (e.g. curtain walls, fence walls, skylight, cladding, tiling, rendering, metal gates, etc), fire safety provisions (e.g. means of escape, means of access for fire fighting and rescue, fire resisting construction, etc), drainage systems, projections (structures projecting on the exterior of buildings, including balconies, verandahs, window canopies, planter boxes, drying racks and

structures supporting building service installations such as air-conditioners, etc.), signboards (including display surfaces, fixings, and supporting structures) as well as windows (all components).

- (b) *Standard of prescribed inspections and prescribed repairs* – reference standards for prescribed inspection and prescribed repair (e.g. statutory standard at the time when the building was constructed (or subsequent enhanced standards as required by the law, for example, upgrading of fire safety provisions under the Fire Safety (Buildings) Ordinance (Cap. 572)).
- (c) *Requirements of prescribed inspections and prescribed repairs* – detailed procedural requirements on notification of appointment and change of appointment of RIs and qualified persons (QPs); submission of documents and records to the Building Authority upon completion of prescribed inspections and prescribed repairs; and types of documents and records to be submitted.
- (d) *Duties of RIs, QPs and RCs in relation to prescribed inspections and prescribed repairs* – detailed description of duties including duty to submit documents; duty to notify the BA of their appointment and change of appointment; duty to provide information in relation to prescribed inspections and prescribed repairs to BA upon request; and duty to keep records of prescribed inspections and prescribed repairs carried out.

Yours Sincerely,



(Harry LIN)

for Secretary for Development

c.c. DD/BD  
LD/DoJ