

**For discussion
on 27 July 2010**

**Legislative Council
Panel on Development**

Subcommittee on Building Safety and Related Issues

**Enforcement against
Unauthorized Alteration Works Inside Private Premises**

INTRODUCTION

This paper discusses the issue of unauthorized alteration works inside private premises, commonly known as “sub-divided units” (“劏房”) in Hong Kong.

SUB-DIVIDED UNITS

2. While there is no exact definition of "sub-divided units" or "sub-division of flat units", to most members of the public, they are formed by the sub-division of a domestic unit into two or more smaller individual units, each usually self-contained with a toilet, for sale or letting purpose. Some units have self-contained pantries/kitchens as well. The building works for sub-dividing a unit into individual self-contained units commonly involve knocking down of partition walls, construction of new partition walls, additional wirings, alteration or addition of internal water pipes and sewerage system for the additional toilets, as well as raising of floors to accommodate new/diverted pipes and drains.

3. These sub-divided units have recently become an area of public concern and a focal point of discussion on building safety and management problems. Members of the public are concerned about potential building safety problems that they cause, including overloading of the structure of the buildings, water seepage problems caused by defective water pipes and drains and obstruction to fire exit routes. Building management problems such as building security, nuisance to the neighbourhood and environmental hygiene problems are also matters of concern. Nevertheless, some stakeholders have pointed out that the

emergence of sub-divided units is a revelation of the rising demand for affordable housing in the urban area. Some in the community, such as young singletons and small families, prefer living in a small flat in the vicinity of their work places to living in a relatively bigger unit farther away and which will cost them more in commuting. Therefore, in considering the issue of sub-divided units, we have to take into account the need of this group of people.

EXISTING STATUTORY CONTROL

4. All building works, including works involved in the sub-division of flat units, have to comply with the building standards (including structural, fire safety and drainage standards) stipulated under the Buildings Ordinance (Cap. 123) (BO) and its regulations. Building works carried out in contravention of the BO will become unauthorized building works (UBWs) and are subject to enforcement action. Concerning sub-divided units, the following are the more likely contraventions—

- (a) overloading (mainly due to raised floors embedding additional water pipes and drains, and additional partition walls), causing structural danger to the building concerned;
- (b) water seepage (due to poor workmanship of internal water pipes and drains), constituting health hazards and environmental nuisance (also actionable under the Public Health and Municipal Services Ordinance (Cap. 132)) or, more seriously, leading to gradual deterioration of the building structure; and
- (c) obstruction to means of escape or means of access for fire fighting and rescue (caused by unauthorized openings to walls to create additional entrances, improper installation of doors that obstruct one another when opened, etc.), causing danger in the event of a fire or accident.

5. Under the BO, staff of the Buildings Department (BD) are authorized to enter at any time and, where necessary, to break into any premises in the presence of a police officer to ascertain whether the provisions of the BO are being complied with. However, under sections

41(3) and 41(3A) of the BO, building works that do not “involve the structure of the building¹” are “exempted works” that may be carried out without the prior approval and consent of the Building Authority (BA). For example, the construction of internal partition walls (which is common in ordinary decoration works of household units) can be carried out in a building without the prior approval and consent of the BA, but the additional partition walls should not cause overloading or contravene other building regulations.

OBSERVATIONS FROM RECENT ENFORCEMENT CASES

6. The BD has collated and analyzed some recent investigation and enforcement cases, and the Department's preliminary observations are outlined in the ensuing paragraphs.

7. The BD does not have statistics on the total number of sub-divided units in Hong Kong. Nevertheless, from 2005 to 2009, the BD received a total of 2,890 complaints concerning sub-division of flat units. During the same period, 85 removal orders were issued under the BO. For the other complaint cases, they are either under investigation or no contraventions of the BO have been found. Regarding the 85 orders, two were issued because of overloading and 24 were issued because of persistent water seepage or water seepage causing serious health hazards. For the remaining 59 cases, the removal orders were not issued on grounds directly related to the sub-division of flat units per se, but contravention of the BO due to other building works associated with the sub-divided units (e.g. removal of main entrance doors (which are fire-rated doors) of the flats or replacement with doors with inadequate fire rating, installation of metal gates at the main entrance obstructing the common fire exit or unauthorized extensions to enlarge the floor space of the sub-divided flats).

8. Amongst the 2,890 complaint cases, the major origins by district are: Yau Tsim Mong (20%), Sham Shui Po (19%), Kowloon City

¹ Section 41(3) of the Buildings Ordinance stipulates that “building works...not involving the structure of any building may be carried out in any building without application to or approval from the Building Authority: Provided that nothing in this subsection shall permit any building works to be carried out in contravention of any regulation.”

(11%) and Kwun Tong (10%). The breakdown by years of completion of the buildings concerned is as follows: 1961-70 (43%), 1971-80 (23%) and 1951-60 (22%).

9. The following are the preliminary observations of the BD after studying the cases that the Department has taken enforcement against -

(a) Structural Problem

10. The loading design of the floor slab in a building usually has included an additional capacity for accommodation of reasonable extra weights and loads. The weight of the raised floor and the additional partition walls, water pipes and drains in a sub-divided flat may not necessarily cause overloading. Should there be overloading, usually there will be symptoms observable from the flat below it and from the common areas outside the sub-divided flats. BD staff will inspect the inside of the sub-divided flat, especially when the above symptoms are present, to assess the seriousness of the overloading and take due enforcement action. The degree of overloading depends on the thickness, location and material of the raised floor and the additional partition walls, water pipes and drains. The symptoms observed and the situations where the BD will carry out a detailed overloading assessment are set out below—

- (i) observable structural cracks and deformations are present in the premises below the sub-divided unit;
- (ii) extensive area of raised floor and additional solid partition walls over a large span of the floor slab are found in a sub-divided unit; or
- (iii) a sub-divided unit is situated on/above a balcony, in particular those of cantilever-slab type.

(b) Water Seepage

11. Water seepage is a more commonly found problem in sub-divided units. This is mainly caused by improper connection of

water pipes or drains, or deficiency of water proofing material of the additional toilets. To save cost, many building owners hire unqualified contractors or workers to carry out the internal alteration and sub-division works of their flat units. The improper design, substandard workmanship of untrained personnel or the use of improper materials would undermine the functioning and durability of the water pipe and drains and water proofing layer of the floor slabs, causing water seepage problems upon the completion of works.

12. Improper connection of water pipes and drains and deficiency of waterproofing material in toilets may contravene the BO. The BO requires that material of all drainage pipes shall be sound and free from defects and that every connection of drainage pipes shall be made to be watertight; and that the floor of every room to which water supply is provided shall be constructed of suitable and impermeable material. If it is proved that the sub-division works and/or improper maintenance of the building have caused water seepage contravening the regulations concerned, the BD will issue statutory orders under the BO requiring rectification. The Joint Office, established by the BD and Food and Environmental Hygiene Department, also provides assistance in the identification of sources of water seepage and takes enforcement action to stop health nuisance.

13. The minor works control system, to be implemented within this year, will help improve the situation. Drainage works within individual units, being exempted works currently, are designated as minor works under the Building (Minor Works) Regulation. All minor works have to be carried out by qualified contractors with proper qualifications and training. With the new system in place, the quality of indoor drainage works will improve and the chance of having water seepage problems will be reduced.

(c) Means of Escape and Fire Safety Concerns

14. In some sub-divided units, UBWs are put up and the fire exit route is obstructed resulting in contravention of the BO. Such contraventions range from obstruction to the fire exit routes of other units by metal gates installed at the entrances of a sub-divided unit to more

complicated cases of blockage of an exit route to a secondary staircase². The latter is a typical fire safety hazard caused by sub-division of flat units in buildings without common corridors linking two staircases. The BD will take enforcement action against UBWs affecting fire safety, and will make reference to the fire safety standards prevailing at the time the building was constructed.

CONSIDERATIONS

15. The Government is conducting a comprehensive review of the building safety policy in Hong Kong. Policy of enforcement against UBWs (including sub-divided units) is one of the items under examination. Sub-divided units present multifarious issues spanning across safety, building management and housing aspects. The existing legislation already covers the basic safety aspects of sub-division of flat units in a building. Before deciding whether to further regulate sub-divided units, we need to carefully consider the following questions—

- (a) Definition of sub-divided units: How should "sub-divided units" be defined? What kind of sub-divided units should be regulated bearing in mind that room partitioning is common in many flats? For example, a couple may partition a separate room in their flat to provide for more privacy for use by their child after marriage. How about partitioning a corner of a flat and turning it into an additional washroom with a raised floor and additional water pipes and drains for the convenience of family members? Should these be prohibited?
- (b) Housing needs: Sub-divided units are lower-priced housing that make attractive choices to certain groups in the community. Should they be made illegal, there would be implications on these groups.
- (c) Building safety: Building safety and health should never be compromised and any premises breaching the law should be enforced against to protect public safety. Concerning the quality of building works carried out, should we consider regulating them from the source, say, by expanding the scope of

² Under the BO, a flat unit should have access to at least two staircases as fire exit routes.

minor works to cover construction works related to sub-division of flat units?

- (d) Means of inspection and enforcement: Should it be decided that inspection and enforcement action should be taken against sub-divided units, should the inspections be carried out by the BD under its statutory powers, or by registered inspectors hired by building owners when they inspect their buildings under the proposed mandatory building inspection scheme?
- (e) Public education: How best should we educate building owners not to carry out unauthorized works to sub-divide flat units? How should we encourage potential tenants of sub-divided units to check the building conditions (e.g. whether approval has been obtained for the building works) before deciding whether to rent the unit?

ADVICE SOUGHT

16. Members are invited to note the observations of the BD on sub-divided units and offer views on the issues identified, which we will take into account in the policy review mentioned in paragraph 15 above.

**Development Bureau
July 2010**