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Panel on Development

Minutes of special meeting
held on Monday, 20 June 2011, at 10:45 pm
in Chamber of the Legislative Council Building

- Members present** : Prof Hon Patrick LAU Sau-shing, SBS, JP (Chairman)
Hon LAU Wong-fat, GBM, GBS, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon WONG Yung-kan, SBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon LEE Wing-tat
Hon CHEUNG Hok-ming, GBS, JP
Hon KAM Nai-wai, MH
Hon Starry LEE Wai-king, JP
Dr Hon Priscilla LEUNG Mei-fun
Hon IP Kwok-him, GBS, JP
Hon Paul TSE Wai-chun
Hon Alan LEONG Kah-kit, SC
Hon Tanya CHAN
Hon Albert CHAN Wai-yip
- Members absent** : Dr Hon Philip WONG Yu-hong, GBS
Hon Timothy FOK Tsun-ting, GBS, JP
Hon WONG Kwok-hing, MH
Hon Cyd HO Sau-lan
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Public officers attending : Agenda items I & II

Mrs Carrie LAM CHENG Yuet-ngor, GBS, JP
Secretary for Development

Mr Thomas CHOW Tat-ming, JP
Permanent Secretary for Development
(Planning & Lands)

Mr Tommy YUEN Man-chung, JP
Deputy Secretary for Development
(Planning & Lands) 2

Mr AU Choi-kai, JP
Director of Buildings

Mr HUI Siu-wai
Assistant Director (Existing Buildings)2
Buildings Department

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)4

Staff in attendance : Mr Simon CHEUNG
Senior Council Secretary (1)9

Ms Christina SHIU
Legislative Assistant (1)4

Action

I Control of unauthorized building works under the Buildings Ordinance (Cap. 123)

(LC Paper No. CB(1)2487/10-11(01) -- Administration's paper on control of unauthorized building works under the Buildings Ordinance (Cap. 123)

- LC Paper No. CB(1)2487/10-11(02) -- Letter dated 27 May 2011 from Hon Albert CHAN Wai-yip on issues relating to unauthorized building works in urban areas
- LC Paper No. CB(1)2441/10-11(01) -- Issues raised at the meeting between Legislative Council Members and Wong Tai Sin District Council members on 12 May 2011 relating to unauthorized building works
- LC Paper No. CB(1)2487/10-11(03) -- Paper on unauthorized building works prepared by the Legislative Council Secretariat (Background brief)

The Chairman advised members that the focus of the present discussion was the control of unauthorized building works ("UBWs") under the Buildings Ordinance ("BO") (Cap. 123) in urban areas. Arrangements had been made for the Panel to discuss issues relating to UBWs in New Territories exempted houses at the regular meeting scheduled for 28 June 2011. He then invited the Secretary for Development ("SDEV") to brief members on the Administration's paper.

2. Before her briefing, SDEV offered condolences to families of the victims in a fire which broke out in a tenement building in Ma Tau Wai Road on 15 June 2011 ("the Ma Tau Wai Road Fire"). She said that while the Home Affairs Department and the Social Welfare Department were providing assistance to affected families, the Police, Fire Services Department ("FSD") and Buildings Department ("BD") were conducting in-depth investigation into the cause of the fire. She stressed that the Administration was gravely concerned about fire accidents involving rooftop structures which occurred in Tsuen Wan, To Kwa Wan and Hung Hom on 4, 7 and 17 June 2011 respectively. She pointed out that these types of rooftop UBWs had been earmarked targets for rigorous enforcement actions by BD since 1 April 2011. She then briefed the Panel on the Administration's policy and strategy for the control of UBW under BO and its subsidiary legislation, and the implementation of the various measures. She highlighted the following points --

- (a) Following the building collapse incident on Ma Tau Wai Road ("Ma Tau Wai Road Building Collapse Incident") in January 2010, the Administration had stepped up building safety measures. As SDEV, she had attended three motion debates and responded to 18 oral and written questions on this subject at meetings of the Legislative Council ("LegCo"). Over the past year, thorough and detailed discussions on different building safety subjects were held between the Administration and the Subcommittee on Building Safety and Related Issues formed under the Panel.
- (b) The Administration's efforts had resulted in the formal announcement by the Chief Executive in his 2010-2011 Policy Address of the adoption of a new multi-pronged approach in partnership with all stakeholders and the general community to enhance building safety in Hong Kong. The approach covered four major areas namely, legislation, enforcement, support and assistance to owners, and publicity and public education.
- (c) On the legislative front, the Administration had introduced the Minor Works Control System ("MWCS"), which was fully implemented on 31 December 2010. MWCS provided a lawful, simple, safe and convenient means for building owners to implement minor works and would help check proliferation of UBWs in the territory. Second reading of the Buildings (Amendment) Bill 2010 which provided for the Mandatory Building Inspection Scheme and the Mandatory Window Inspection Scheme, would resume on 29 June 2011. The Administration would introduce other legislative amendments in the 2011-2012 session to strengthen the building safety regime, including proposals to enhance control on unauthorized signboards and subdivided flats.
- (d) On the law enforcement aspect, under the enhanced enforcement policy against UBW adopted since 1 April 2011, BD would continue to respond to reports on UBW from the public and deal with cases identified through regular inspection. It would also conduct large scale operations and special operations to tackle all "actionable" UBWs in an orderly manner.

- (e) On support and assistance to owners, the five assistance schemes administered by the Urban Renewal Authority ("URA") and the Hong Kong Housing Society had been consolidated to become the Integrated Building Maintenance Assistance Scheme with effect from 1 April 2011. Further, the Administration had sought an additional \$1 billion from LegCo for implementing the last phase of the Operation Building Bright programme. Recognizing the needs of building owners, in particular, elderly owners with limited financial resources, the Administration had relaxed certain eligibility criteria of some schemes and extended the scope of assistance.
- (f) As for public education, the Administration had set aside additional resources for organizing a large-scale public education campaign with a view to fostering a building safety culture in the community. In order to instil a sense of appreciation of building safety amongst the younger generation, the Administration had produced a teaching kit for the liberal studies of senior secondary curriculum of schools with the assistance of the Hong Kong Baptist University.
- (g) Under the new Urban Renewal Strategy published in February 2011, rehabilitation of buildings in need of repairs had become a core business of URA. URA would provide technical and financial assistance to building owners in promoting proper maintenance of aged buildings.

Control of subdivided flats

Approach in tackling subdivided flats

3. Mr KAM Nai-wai urged the Administration to accord higher priority in tackling the deteriorating problem of subdivided flats. He was disappointed at BD's plan to inspect only 150 target buildings with subdivided flats in 2011-2012, and asked whether BD faced any resources problem which prevented it from increasing the number of buildings for inspections.

4. SDEV advised that to enable BD to cope with additional workload arising from implementing the new building safety-related measures, considerable resources had been provided for BD to increase some 170 permanent posts, engage outside consultancy services and launch a large scale stock-taking exercise on all UBWs in 2011-2012. She was confident

that BD would have adequate resources and manpower to face the new challenge posed by the problems of UBWs and subdivided flats. The Administration would monitor the situation closely to see whether additional resources would be required.

5. Mr LEE Wing-tat criticized the Administration for its failure to learn a lesson from the Ma Tau Wai Road Building Collapse Incident and to take action to address the proliferation of subdivided flats in the territory. He expressed grave concern that due to improper alteration works within the flats, fire escape routes inside the flats could be blocked, and hence posed hazards to residents. He urged that the Development Bureau ("DEVB") should work with the Security Bureau and FSD in stepping up enforcement actions to arrest fire hazards in subdivided flats. Mr LEE Wing-tat and Mr Frederick FUNG questioned whether FSD had conducted fire safety inspection to the subject building in the Ma Tau Wai Road Fire before, and whether the special operation undertaken in the wake of the Ma Tau Wai Road Building Collapse Incident to inspect some 4 000 buildings aged 50 years or above had helped abate fire risks of aged buildings with subdivided flats. They also enquired about application of the Bedspace Apartment Ordinance (Cap. 447) in regulating subdivided flats. Moreover, Mr LEE queried the effectiveness of statutory orders issued by BD to require owners to conduct immediate rectification works against subdivided flats. He said that the Ma Tau Wai Road Building Collapse Incident was a case in point. While BD issued a statutory order to the concerned owners in 2004 to urge for rectification works, the order was neglected by the owners.

6. SDEV advised that subdivided flats would cause three major problems to the safety of buildings, namely increasing floor loading of the building, water seepage and fire hazard. To address the fire hazard problem, she assured members that BD and FSD would continue to work closely to follow up subdivided flats found to have serious fire safety problems. Regarding the special operation to inspect aged buildings, she pointed out that the focus of the operation was to find out the structural defects of aged buildings rather than to identify fire risks in the buildings. She did not think that the Bedspace Apartment Ordinance (Cap. 447) applied to subdivided flats. As for compliance of statutory orders, she agreed that the present situation was unsatisfactory, and remarked that the low compliance of building owners might be partly attributed to the low level of fines imposed by the Court on convicted cases. As such, the Administration was studying views and suggestions from the professional bodies to improve compliance with BD's orders.

7. As regards the statutory orders requiring owners to carry out repair or rectification works, Director of Buildings ("D of B") said that under BO, owners could appeal against BD's orders. Pending the decision of the Appeal Tribunal, BD had to withhold enforcement actions as provided for under BO. As for prosecution, substantial amount of time and resources were required to gather evidence and prepare for court proceedings. He agreed that the sanctions imposed by the Court on non-compliant owners were on the low side and thus might not create sufficient deterrent effect. On the suggestion that BD should arrange the remedial works if owners failed to comply with the orders and recover the costs from the concerned owners afterwards, he explained that due to resources constrains, it would not be possible for BD to handle all subdivided flat cases using this approach. Nevertheless, in circumstances where the subdivided flats or UBWs were posing imminent danger, BD would arrange for the necessary works to be carried out to rectify the situations immediately upon the owner's default.

8. Mr Albert CHAN said that failure of the Administration to carry out timely enforcement actions upon complaints about problem of subdivided flats by owners' corporations or owners/residents in the building had attributed to the aggravation of the problem.

9. SDEV re-iterated that a major obstacle faced by BD in taking enforcement actions against UBWs/subdivided flats was denial of entry into the premises concerned for conducting inspection and investigation works. In this regard, the Administration would introduce legislative amendments to enable Building Authority ("BA") to apply for a court warrant for entry into private flats for the purpose. D of B supplemented that BO empowered officers of BD to enter any premises for investigation of suspected building safety problems. Nonetheless, in practice, it was difficult to exercise such power. Very often, nobody was inside the premises or BD officers were refused entry by uncooperative owners. To enhance effectiveness of BD's inspection works, the Administration would introduce legislative amendments to enable BA to apply for warrants from the Court for entry into premises where necessary.

10. Mr Abraham SHEK said that he held a different view. He understood that there were provisions under BO, Fire Services Ordinance (Cap. 95) and Waterworks Ordinance (Cap.102) empowering public officers to enter into private premises for making inspections in the investigation of suspected irregularities. He had reservation on the Administration's proposal to use court warrant as the tool since there would be privacy

concerns and the proposed approach might infringe on private property rights of the individual owners.

11. Ms Starry LEE said that subdivided flats involved complicated social issues and had caused a lot of problems, including structural safety and fire hazard in buildings. Subdivided flats were commonly found in aged, dilapidated and poorly-managed buildings. She expressed strong disappointment that while the Administration took immediate action to arrange special operation to inspect aged buildings aged 50 years or above in the wake of the Ma Tau Wai Road Building Collapse Incident, it had not taken swift follow-up action for the Ma Tau Wai Road Fire happened recently. Given that the subject of subdivided flats straddled the purviews of a number of bureaux and departments, including the Home Affairs Bureau ("HAB"), DEVB and FSD, she suggested that the Administration should consider setting up a cross-departmental task force, to be led by the Chief Secretary for Administration, to tackle related problems in a comprehensive manner.

12. SDEV said that subdivided flats involved complicated issues, and as she acknowledged in her concluding remarks made at the motion debate on the Ma Tau Wai Road Building Collapse Incident at the LegCo meeting of 4 February 2010 that, to tackle this highly complicated social problem effectively, concerted efforts of relevant Government policy bureaux and departments were required. She emphasized that, DEVB, as the bureau responsible for the policy portfolio of building safety, had been acting as the coordinator in collaborating joint efforts of HAB and other relevant departments to tackle the problems of UBWs and subdivided flats. While she considered that the existing mechanism worked well, the Administration would keep an open mind on Ms LEE's suggestion of setting up a high-level task force to take forward the matter. In response to a further enquiry from Ms Starry LEE, SDEV confirmed that not all subdivided flats were in breach of BO.

13. On the Administration's proposal to extend the scope of MWCS to cover works involved in subdivided flats, such as erection of partition walls, addition of floor screeding, formation of openings to fire escape route, Mr James TO expressed concern about whether registered minor works contractors would have sufficient knowledge on fire safety requirements within premises. He was concerned that certain alteration works associated with subdivided flats might not meet fire safety standards.

14. D of B explained that under BO, certain building works and drainage works that did not involve the structure of a building could be

carried out inside the building without prior approval from BA. Yet, these minor works were required to meet the prescribed standards, such as those relating to floor loading and fire safety requirements. The proposal to extend the scope of MWCS aimed to strengthen control on building works including those involved in subdivided units. Under the new system, building owners had to engage qualified professionals, i.e. registered minor works contractors, to carry out the relevant works in accordance with prescribed procedures and standards so as to ensure the safety and quality of the works. The Administration proposed to include in MWCS various types of works involved in subdivided flats. For Class I minor works which were more complicated, it was necessary for the building owner to engage a qualified professional i.e. an Authorized Person ("AP") to coordinate and supervise the works. With adequate professional training and the need to meet various statutory requirements, APs would help ensure compliance of the alteration works in subdivided flats with prescribed building and fire safety standards.

15. While agreeing that MWCS was a solution in the long run for the problems arising from subdivided flats, Mr Frederick FUNG expressed concern about how the Administration would deal with existing subdivided flats, and whether the Administration had formulated any plan in this regard. Moreover, he urged that the Administration should consider intervening in cases where buildings were found with serious management and safety problems, and bringing in professional management teams on "small area" basis to provide assistance to owners and OCs. In this connection, Miss Tanya CHAN urged the Administration to take note of the problem that private building units located near hospitals were turned into subdivided flats to provide accommodation for Mainland pregnant women awaiting delivery in Hong Kong.

Re-housing arrangement for residents of subdivided flats

16. Since subdivided flats were homes to many low-income families, with the Administration's enhanced enforcement actions against subdivided flats, Mr KAM Nai-wai enquired whether the Administration could make re-housing arrangements for affected residents.

17. SDEV stressed that it was the Administration's policy that no one would become homeless as a result of enforcement actions by BD. She assured members that the Administration would collaborate with the Hong Kong Housing Authority ("HKHA") in making re-housing arrangements for those affected by enforcement actions against UBWs and subdivided flats subject to their eligibility. The same had been done in the clearance of

illegal rooftop structures in single staircase buildings. On the control of subdivided flats, she stressed that the aim of the Administration was to "regulate" rather than to "eliminate" them. It should be noted that subdivided flats mainly located in residential buildings in the urban areas. Such flats, if completed by qualified personnel in accordance with the prescribed standards, would be safe accommodation and could satisfy housing needs of the low-income families who chose to live in urban areas in order to save travelling expenses.

18. Mr Abraham SHEK considered that the problem of subdivided flats was caused by a number of factors, including the widening gap between the rich and the poor and increasing number of new arrivals from the Mainland. He stressed the importance for the Administration to grasp the root of the problem which would enable it to formulate a comprehensive policy and concrete measures to deal with the problem. In view of the scale and complexity of the problem, he agreed with other members that subdivided flats could only be "regulated", not "eliminated".

Control of unauthorized building works

Enhance enforcement against UBWs

19. Noting that BD had enhanced its enforcement action against UBWs to cover all "actionable" UBWs with effect from 1 April 2011, Mr KAM Nai-wai enquired whether the scope could be extended to yards of buildings to include water-cooling towers which were causing serious nuisance at present. SDEV advised that BD had extended the coverage of "actionable" UBWs to include all UBWs on roof-tops, podiums as well as yards and lanes of buildings. In other words, irrespective whether these UBWs constitute imminent danger to life or property, or pose environmental nuisance, they would be subject to BD's enforcement actions.

Issue of removal orders and the Building Coordinators Approach

20. While expressing support for the Administration's approach in tackling the UBW problem in general, Mr CHAN Kam-lam said that there was room for improvement in the Administration's work in certain areas. For instance, BD should issue removal orders against UBWs in time to dovetail repair works initiated by owners for their buildings, or works conducted under the Operation Building Bright. He further enquired about the purpose for BD to adopt the new Building Coordinators Approach in taking enforcement actions against building safety problems.

21. SDEV believed that the extension of the scope of BD's enforcement actions to cover all "actionable" UBWs found on rooftops, podiums, rear lanes and yards with effect from 1 April 2011 would facilitate owners of private buildings to deal with UBWs within their buildings in a more comprehensive manner as removal of UBWs could be incorporated into the major repair/rectification works to be carried out for the buildings. As regards the Building Coordinators Approach, she explained that the purpose was to streamline and rationalize BD's enforcement works against existing buildings. Under the new approach, a single section in BD would be designated to handle all general building safety problems, including handling complaints and taking general enforcement against building dilapidation and different types of UBWs for the same building.

22. Miss Tanya CHAN enquired about follow-up actions to be taken against UBWs for which BD had registered the warning notice at the Land Registry (commonly known as "imposing an encumbrance"). To enhance the effectiveness of enforcement actions, she considered it necessary to increase resources for BD so that it could take more rigorous follow up actions on UBW cases which had been served with warning notices or removal orders.

23. Assistant Director (Existing Buildings)2 ("AD/EB") advised that since 1 January 2005, some 39 000 warning notices had been issued by BD, of which about 32 000 notices remained valid as at this date, whereas about 7 000 owners had undertaken action to clear UBWs in their properties. As for removal orders, BD's statistics in early 2011 showed that compliance on some 50 000 removal orders issued was still outstanding.

24. Miss Tanya CHAN said that the compliance rate was disappointing. She expressed concern about the low compliance rate for advisory letters, warning notices and removal orders issued, and stressed the need for BD to devise measures to improve the situation. SEDV believed that the Administration's decision to initiate rigorous enforcement actions against all "actionable" UBWs on 1 April 2011 would be helpful for BD to clear the existing backlogs. The Administration would explore measures to improve the compliance of notices/orders issued by BD, such as advancing the deadlines for complying with the notices/orders.

25. Mr Albert CHAN considered that the Administration should formulate a comprehensive policy to tackle the UBW problem, which covered a wide range of issues including clearance, compensation, re-housing arrangements, etc. He pointed out that BD had been adopting different standards in taking enforcement actions against UBWs. For

example, while the department had been taking enforcement action against minor building irregularities in industrial buildings, it took no action against sizable UBWs found in blatant contravention with existing legislation. SDEV stressed that with the implementation of rigorous enforcement actions against all types of 'actionable' UBWs with effect on 1 April 2011, BD had been stepping up its enforcement actions and this would enhance consistency in the taking of enforcement actions for different kind of UBWs.

Rehousing arrangement for residents of rooftop structures

26. Since UBWs on roof-top of buildings were homes for many low-income people, Miss Tanya CHAN urged the Administration to act with prudence to ensure that affected residents would not become homeless as a result of the Administration's enforcement actions against UBWs. She considered that the provision of interim housing in remote locations, such as Long Bin in Yuen Long, were not acceptable to residents of roof-top structures as they had been living in these structures for years. Mr Alan LEONG echoed the views. He urged the Administration to make proper re-housing arrangements for residents affected by clearance of rooftop structures.

27. SDEV advised that during the ten-year period from 2001 to 2011, with assistance from HKHA in providing housing accommodation for some 2 500 eligible affected households, the Administration had successfully cleared more than 10 000 illegal rooftop structures in single-staircase buildings which posed serious fire hazard in these buildings. The Administration would adopt the same approach to deal with rooftop UBWs in future. As a matter of principle, while affected residents meeting the eligibility requirements would be provided with public housing, those failing would only be given interim housing.

28. Mr Frederick FUNG criticized the Administration for failing to make re-housing arrangements for the affected residents prior to the clearance operations. He recalled that in the past, in order to encourage residents to move out from illegal rooftop structures, more favourable re-housing arrangements, such as the provision of public housing units in urban areas, were offered. He opined that the Administration should consider switching back to this arrangement so as to avoid unnecessary resistance from residents and facilitate clearance operations.

29. SDEV assured that with the experience gained in the clearance of illegal rooftop structures in single-staircase buildings in the past ten years, she was confident that with continued support from HKHA, the

Administration would be able to deal with the remaining illegal rooftop structures in an orderly and progressive manner. She remarked that in order to curb the proliferation of illegal rooftop structures, it would not be appropriate to offer favourable re-housing arrangement for affected residents.

Rooftop structures of multi-storey buildings in the New Territories

30. With regard to the recent enhanced enforcement actions against rooftop structures in the New Territories, Mr Albert CHAN referred to a judicial review case considered by the High Court in 2004-2005. Under the case, it was revealed that in a letter issued by the District Office of Tai Po on 9 November 1981, all rooftop structures erected before February 1975 in the New Territories which did not cause safety concern were granted amnesty and no demolition of the UBWs would be required. He urged that BD should uphold the amnesty. If BD considered that any rooftop structures erected before February 1975 were to be demolished, it should explain clearly to residents as to how these structures would pose danger to the public. Mr Abraham SHEK expressed similar concerns and requested the Administration to clarify the matter.

31. Regarding the 1975 amnesty referred to by Mr Albert CHAN, Permanent Secretary for Development (Planning & Lands) clarified that in subsequent court cases, the Court ruled that the amnesty might be overridden in view of the importance of public safety in clearing the illegal rooftop structures concerned. Accordingly, the Administration took action to remove illegal rooftop structures on all single-staircase buildings during the ten-year period from 2001 to 2011. D of B supplemented that BD would explain to the concerned owners the problems of the illegal rooftop structures in their premises and the risks to public safety. To enable members to have a better understanding of the matter and the legal basis of BD's enforcement actions against illegal rooftop structures, members requested the Administration to provide an information paper on the subject after the meeting. The Administration noted the request.

(Post-meeting note: The information paper provided by the Administration was circulated to members vide LC Paper No. CB(1)524/11-12(01) on 8 December 2011.)

Amnesty for existing UBWs

32. Mr Paul TSE declared that there were UBWs in his properties, and he was dealing with the case. He considered that UBWs had been a

long-standing problem in Hong Kong involving complicated social issues and requiring substantial resources to tackle. As such, it was necessary for the Administration to adopt a new approach to deal with the problem. As the most dangerous UBWs found on the external walls of buildings and rooftop structures had been removed in the various enforcement programmes conducted in the last ten years, it was high-time for the Administration to direct its resources to focus on other building safety issues such as subdivided flats. He opined that the Administration should introduce a registration system for UBWs if their structural safety was verified by qualified building professionals. The registration system would enable the Administration to have a better understanding of the problem of these UBWs, including their number and conditions, and would facilitate concerned owners to make applications for retaining the structures.

33. SDEV said that while she agreed with members that UBWs was a long-standing problem in Hong Kong, she disagreed that 1 April 2011 should be used as a "watershed", whereby the Administration could leave UBWs at the external walls of the buildings and focus its work on UBWs relating to internal alteration works within premises such as subdivided flats units. She pointed out that there were still a large number of UBWs found at the external walls of the buildings pending enforcement actions of BD. The enhanced enforcement programme launched after 1 April 2011 aimed to remove these remaining unauthorized structures. She stressed that the Administration would not consider granting amnesty to UBWs erected before a certain "cut-off date" as this would be unfair and against the spirit of the rule of law. Any building works carried out or any structures completed not in compliance with the requirements of BO were unauthorized structures and could not be legalized through administrative arrangements. That said, the Administration was willing to consider further relaxation of the Validation Scheme ("VS") under MWCS to include minor unauthorized items not constituting hazard to public safety, such as air-conditioner supporting frames, drying racks, small canopies and unauthorized signboards. However, there was limit to the scope of VS as it would be difficult to validate the safety of existing UBWs of a more complicated nature. To qualify for inclusion in VS, these minor items should be common daily necessities of people so that there would be good reasons for these items to stay.

Suspected complaint on UBWs at the residence of the Director of Buildings

34. Ir Dr Raymond HO criticized D of B for mishandling a complaint on a suspected UBWs found at the balcony in his residence. He opined that as a high-ranking Government official and being BA, it was inappropriate for

D of B to engage officers of BD to undertake inspection works for the suspected UBWs in question. Mr Alan LEONG expressed similar views. Ir Dr HO further enquired whether the alteration works associated with the suspected UBWs had been carried out by qualified building professionals. He also stressed the need for the Administration to address the long-standing conflicts between the Structural Engineer and the Building Surveyor grades within BD.

35. D of B explained that the minor alteration works carried out in his premises was "exempted works" under BO since the works did not involve the structure of the building. He further clarified that the alteration works had neither increased the floor loading of the building nor blocked up any drainage systems. He stressed that the complaint had been handled in accordance with BD's established procedures. SDEV said that she did not find it inappropriate for BD to handle the complaint in question as it was the department responsible for dealing with building safety matters. She stressed that there would not be any change in the policy for handling complaints even if such complaints involved Government officials.

36. In this connection, Mr KAM Nai-wai opined that it was necessary for the Administration to educate building owners and members of public through leaflets and other means on minor building works that would be exempted from BO. SDEV assured members that the Administration would step up public education on enforcement of UBWs, including items which were "exempted works" under BO.

The Administration's approach in tackling UBWs

37. Mr Alan LEONG criticized the Administration for adopting a passive and fragmented approach in tackling the UBW problem in Hong Kong. He opined that given the long-standing problem and rich past experience in dealing with the problem, the Administration should have a good grasp of the problem. He considered that the Administration should critically analyze the data/information on UBWs at hand with a view to formulating a comprehensive policy to tackle the problem. The Administration should also undertake a review of BO to revoke outdated provisions which had hindered effective enforcement actions of BD.

38. SDEV pointed out that the Administration did not have comprehensive information on the existing UBWs in Hong Kong, including their numbers, types and conditions. The Administration had set aside \$27 million to engage private consultants for conducting a large-scale stock-taking exercise on all UBWs on the exterior of private buildings in

Hong Kong. On the legislative front, considerable amendments had been made to BO over the years, including the most recent one to introduce the Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme through the Buildings (Amendment) Bill 2010. Other legislative proposals were on the pipeline to be introduced into LegCo. The Administration would continue to conduct regular reviews of BO, and propose amendments where necessary. With all these efforts, the Administration was confident that BD and other departments would be provided with clearer and stronger statutory bases in tackling UBWs in a more effective manner.

39. Mr James TO agreed that to achieve better results, handling of the UBW problem should be escalated to a higher level, such as the Chief Executive or the Chief Secretary for Administration. SDEV took note of Mr TO's suggestion, and agreed to reflect the views for Government's consideration.

II Concerns on maintenance of aging buildings arising from the recent canopy collapse incident in Tuen Mun

(LC Paper No. CB(1)2487/10-11(04) -- Administration's paper on concerns on maintenance of aging buildings arising from the recent canopy collapse incident in Tuen Mun

LC Paper No. FS23/10-11

-- Paper on concerns raised by various sectors in Hong Kong on maintenance of aging buildings arising from the canopy collapse incident in Tuen Mun prepared by the Research Division of the Legislative Council Secretariat (Fact sheet))

40. AD/EB briefed members on the canopy collapse incident occurred in the afternoon of 9 June 2011 in an industrial building at 3 Kin Kwan Street, Tuen Mun ("the Tuen Mun Incident"). He highlighted the salient points as follows --

- (a) Upon completion of the search and rescue operation by the FSD, staff of BD immediately moved in to assess the conditions of the industrial building in question and the portions of canopy that remained after the collapse.
- (b) A contractor was engaged to remove the loose parts of the damaged canopy and put up temporary shoring to support the remaining parts of the canopy. The emergency repair works were substantially completed on 13 June 2011.
- (c) Investigation into the cause of the Tuen Mun Incident was conducted in three directions: (i) to study the records of maintenance, and addition and alteration works of the building concerned; (ii) to examine the evidence gathered in the scene and analyze specimens collected; and (iii) to obtain information from eyewitnesses. An initial investigation report was expected to be completed in about a month's time.
- (d) Starting from 10 June 2011, BD launched a special operation to inspect about 4 000 buildings in the territory with cantilevered slab canopies similar to that of the industrial building in Tuen Mun. The purpose of the operation was to visually assess the state of repair and maintenance of these canopies to ascertain whether any follow-up actions were necessary. The operation would be completed by end of July 2011.
- (e) According to the state of repair and corresponding follow-up actions to be taken, the canopies would be grouped into three categories i.e.: (i) Category I: canopies requiring emergency works; (ii) Category II: canopies requiring statutory actions such as issue of investigation, repair and/or removal orders; and (iii) Category III: canopies with no apparent defect but advisory letters would be issued to owners reminding them of the importance of periodic maintenance of the canopies.

Previous enforcement actions on the industrial building

41. Mr LEE Wing-tat expressed grave concern that similar to the collapsed building in the Ma Tau Wai Road in early 2010, the industrial building in question in Tuen Mun had been served with an "inspection order" by BD. Hence, there were good reasons to suspect that the failure of the building owner to comply with BD's order was a major cause contributing to the collapse of the canopy. He pointed out that through

different delaying tactics, such as verbal undertaking to engage an AP to carry out the required investigation, time-consuming correspondence with BD and abuse of the appeal mechanism, it was possible for building owners to bring urgent repair works to a standstill. He requested BD to provide details of the enforcement actions against the industrial building in question in the past years.

42. D of B said that the "investigation orders" previously served by BD on the industrial building was totally independent of the incident of canopy collapse. According to BD's records, BD issued an "investigation order" under section 26A of BO requiring the Incorporated Owners ("IO") of the industrial building to carry out an investigation on the stability of the subject canopy. Further to that, a drainage repair order under section 28 of BO requiring investigation of drains and sewers of the building was also served. An AP appointed by IO subsequently conducted a structural investigation on the canopy and the results showed that the factor of safety of the canopy was adequate. A proposal for repair of the canopy and drainage and sewers works was then submitted by AP and accepted by BD in March 1998. The remedial works for the canopy and drainage and sewer works were completed under the supervision of AP whose certification on completion of the works was acknowledged by BD in April 1999. He supplemented that in accordance with existing practice, for building owners who had failed to comply with an "investigation order" issued by BD, BD would engage a consultant to conduct the investigation and engage the government contractor to carry out the remedial works found necessary from the result of the investigation, without the need to issue a statutory order for remedial works. The costs incurred would be recovered from the owners. As the owner of the industrial building in question had complied with the investigation order and carried out the remedial works required, there was no need for the issue of any statutory order for remedial works by BD.

43. Mr LEE Wing-tat queried the quality of the repair works on the canopy and the supervision undertaken by AP. He remarked that had the works been carried out in accordance with the established requirements meeting structural and safety standards, the canopy should not have fallen apart. D of B responded that since the repair works on the canopy were carried out more than ten years ago, if no regular maintenance and timely repair had been carried out after completion of the repair works, the canopy could still be in a dilapidated state of poor maintenance. Without concrete evidence, it would be inappropriate to speculate that the repair works coordinated by the AP in 1998 and 1999 had fallen short of the required standards. It would be prudent to wait for a detailed investigation report on the Tuen Mun Incident.

(Post-meeting note: The investigation report compiled by BD was circulated to members on 14 October 2011 vide LegCo Paper No CB(1)49/11-12(01).)

Joint Office of Buildings Department and Food and Environmental Hygiene Department to tackle water seepage

44. Mr KAM Nai-wai said that there should be signs revealing structural problem in the canopy prior to the collapse of canopy in the Tuen Mun Incident. He noticed from paragraph 12 of the Administration's paper that the Joint Office ("JO") set up by the Food and Environmental Hygiene Department ("FEHD") and BD for tackling water seepage had received complaint from a ground floor unit about water seepage within his unit in January 2010. Though investigation was carried out by JO, the source of the seepage could not be identified. Mr KAM expressed concern about whether the collapse of the canopy had reflected the poor work of JO, in particular, the lack of effective coordination between the work of BD and FEHD.

45. AD/EB advised that the JO was set up by BD and FEHD to provide "one-stop" service in dealing with public complaints on water seepage in private buildings. Its primary role was to enforce the relevant legal provisions in abating nuisance caused by water seepage. The investigation work conducted by JO in 2010 in relation to the water seepage complaint in the industrial building was carried out by JO in accordance with established guidelines and procedures. He assured members that whenever any building defects involving structural problems were identified, JO would bring it to the attention of BD for follow-up in the first instance.

Visual assessment on the state of repair and maintenance of canopies

46. Mr KAM Nai-wai queried the reliability of visual assessment in determining the structural safety of canopies, in particular, where cantilevered slab canopies covered by decorations, signboards and minor touch-up works were involved. While he took note of Mr KAM's concerns, AD/EB explained that visual assessment was an effective means to check the state of repair and maintenance of building structures including cantilevered slab canopies. In conducting examination on the canopies in accordance with established guidelines and procedures, the focus would be on the most "sensitive" parts on the upper side of the canopy which would shed light on the overall structural stability of the canopy. During inspection, the professional staff of BD would also pay attention to the presence of signs of water infiltration, corrosion of steel reinforcement bars,

cracks and loosing concrete slabs, etc. Where necessary, in-depth investigation on the structural safety of the canopy would be carried out by Structural Engineers of BD, and any cover-ups on the canopy would be removed for closer examination.

III Any other business

47. There being no other business, the meeting ended at 1:02 pm.

Council Business Division 1
Legislative Council Secretariat
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