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**Panel on Development**

**Special meeting on 20 June 2011**

**Background brief on unauthorized building works**

**Purpose**

This paper provides background information on the Administration's policy and measures in combating unauthorized building works ("UBWs") and a summary of major views and concerns expressed by Members in previous discussions.

**Background**

Definition of unauthorized building works

2. According to the Administration, under the Buildings Ordinance ("BO") (Cap. 123), all building works (except a small number of exempted works and those designated as minor works under the Minor Works Control System ("MWCS")) require the Building Authority ("BA")'s prior approval of plans and consent for commencement before such works can be carried out. Otherwise those works will become UBWs. Common examples of UBWs include metal cages, air-conditioning cooling towers, flat roof structures, rooftop structures, subdivision of flats, structural alternations and drainage connections. All UBWs are liable to be demolished.

Approval and consent for building works

3. According to BO, any person intending to carry out building works (new building works or alterations and additions works) is required to appoint an authorized person, and where necessary, a registered structural engineer, to prepare plans for the approval of the Buildings Department ("BD"). Consent from BD is required for commencing the building works.

A registered contractor should also be employed to carry out the approved works. Certain minor building works which do not involve the structure of a building may be carried out without prior approval from the Government.

#### Enforcement actions against UBWs between 1999 and 2011

4. According to the Administration, the problem of UBWs became serious in Hong Kong in the late 1990s. In 2001, the total number of UBWs in the territory was estimated to be around 800 000. Since September 1999, BD had been conducting large-scale clearance operations known as "blitz" to clear in one go all UBWs projecting from external walls of identified buildings.

#### *The 2001 enforcement policy on UBWs*

5. In February 2000, the Administration set up a task force under the then Planning and Lands Bureau to formulate a comprehensive strategy for enhancing safety and timely maintenance of buildings. Following extensive consultations, the task force promulgated in April 2001 a new enforcement policy against UBWs in Hong Kong. Under the 2001 enforcement policy, BD accorded priority to clearing UBWs constituting obvious or imminent danger to life or property, serious health hazards or environmental nuisance, and newly erected UBWs. The focus of BD's clearance operations was on items hanging on external walls of buildings that were 20 to 40 years old and illegal rooftop structures in single-staircase buildings. BD engaged private consultants to set up consultant teams to look into reports lodged by members of the public on UBWs under construction, and to carry out regular patrols over the territory to proactively locate UBWs under construction. The consultant teams would carry out inspections within 48 hours after receiving complaints from the public.

6. Regarding the more serious cases or cases that had been accorded high priority for clearance, BD would issue orders under section 24(1) of BO requiring the owners to remove or rectify the UBWs concerned. If the owners failed to comply with the orders by the specified dates, BD would generally instigate prosecution action under section 40(1BA) of BO in order to urge the owners to remove their UBWs voluntarily, except for those UBWs with obvious danger which would have to be removed by Government contractors. While this approach had been quite effective in the past, it involved an inevitably long prosecution procedure. As for the UBWs which had not been accorded high priority for clearance, BD would, depending on the situation, serve advisory letters or warning notices

requesting the owners to remove the UBWs voluntarily. If an owner failed to remove the UBWs specified in the warning notice by the deadline, BD would register the warning notice at the Land Registry (commonly known as "imposing an encumbrance"). If only an advisory letter was served, no further follow-up actions would be taken in general.

7. According to the Administration, since the launch of the 2001 programme, BD was able to curb the emergence of new UBWs and removed above 40 000 UBWs every year. As a result of the large-scale clearance operations and BD's enforcement actions, more than 400 000 UBWs have been cleared by the end of March 2011.

#### New measures to enhance building safety in Hong Kong

8. Prompted by the building collapse incident on Ma Tau Wai Road in late January 2010, the Chief Executive announced in his 2010-2011 Policy Address that the Administration decided to adopt a new multi-pronged approach to enhance building safety which covered four major areas --

- (a) legislation;
- (b) enforcement;
- (c) support and assistance to owners; and
- (d) publicity and public education.

At the policy briefing to the Panel on Development on 21 October 2010, the Administration elaborated its policy of enhanced enforcement actions against UBWs to enhance building safety.

#### *Enhanced enforcement actions against UBWs*

9. The Administration's intention is to initiate vigorous enforcement actions against UBWs, in response to the community's view for adopting a tougher stance against non-compliant owners to create a stronger deterrent effect. The Administration has decided to extend the scope of "actionable" UBWs. Instead of focusing on high-priority items under the ten-year programme, unauthorized works in roof-tops, podiums, as well as yards and back-lanes of buildings would be included. The policy change implies that the Administration will be taking enforcement action against most, if not all, actionable UBWs found on the façade of a building. BD will actively respond to complaints and issue statutory orders requiring owners to conduct rectification works immediately if there are confirmed

"actionable" UBWs after inspection. BD will also instigate prosecution actions more readily to sanction owners who fail to observe the statutory orders. For buildings lacking management and owners of which cannot coordinate the removal of UBWs by themselves, BD will consider arranging the concerned works on their behalf and charge the owners for the cost incurred at a later stage.

10. To facilitate the taking of enforcement actions, BD will conduct a stock-taking exercise of all UBWs on the exteriors of buildings. BD will continue its enforcement against UBWs, and select an appropriate number of buildings each year for comprehensive repair and UBW demolition works.

#### *Minor Works Control System*

11. According to the Administration, the building control regime under BO does not distinguish between works for the construction of new buildings from minor building works, which are simple in nature and in small scale. Hence, in carrying out minor works in existing buildings, many building owners have overlooked or chosen to ignore the statutory requirements including obtaining BA's approval for building plans and commencement for the works, and engaged personnel without formal training to carry out the works. As a result, a number of minor works have become UBWs and some works are without guarantee in quality.

12. To enhance building safety, the Administration has introduced MWCS, which was fully implemented on 31 December 2010. Under this system, a new category of building works, i.e. "minor work" is introduced, a register of "registered minor work contractors" is created, and BA's prior approval for the building plans and consent to commence works in respect of minor works are no longer required. BD will register existing practitioners and arrange suitable training from them before their registration as minor works contractors. Registered minor work contractors are required to follow the new "simplified requirements" for carrying out minor works. BD has put in place guidelines and advice by issuing codes of practice and practice notes to facilitate contractors in carrying out minor works safely in compliance with the relevant standards. To regulate the registered contractors, sanctions will be imposed for failure to act lawfully in carrying out building and related works. Moreover, a Household Minor Works Validation Scheme ("HMWVS") has also been established under MWCS. HMWVS allows owners to retain and continue to use, after safety inspections and validations, three types of household minor works items, namely air-conditioner supporting frames, drying racks and small canopies, which have already been installed before the

introduction of MWCS. Enforcement actions will not be taken against these validated works items unless there is a change in the safety conditions. In brief, MWCS provides a lawful, simple, safe and convenient means for building owners to implement minor building works and will help check proliferation of UBWs in the territory.

### *Mandatory Building Inspection*

13. The Buildings (Amendment) Bill 2010, which is still under scrutiny by the Legislative Council ("LegCo"), includes a proposal for implementing the Mandatory Building Inspection Scheme ("MBIS"). Under MBIS, BA will select private old buildings every year and require their owners to carry out inspection and, where necessary, repair works in relation to common parts, external walls and projections of the buildings. The registered inspectors appointed for MBIS inspections will be required to report to BA UBWs identified in the common parts and external walls of the buildings and assess the safety conditions of the UBWs. For UBWs posing an imminent danger, BD will order their removal in accordance with its enforcement policy against UBWs. According to the Administration, implementation of MBIS will enable BD to have a better grasp of UBWs conditions of old building in Hong Kong.

### *Public education and assistance to building owners*

14. The Administration, in collaboration with the Hong Kong Housing Society and Urban Renewal Authority, has been providing technical and financial support for building owners in promoting building safety and carrying out timely maintenance and repairs for their buildings. These included the Operation Building Bright, the Integrated Building Maintenance Assistance Scheme<sup>1</sup>, and the Government funded Comprehensive Building Safety Improvement Loan Scheme and Building Maintenance Grant Scheme for Elderly Owners, as well as efforts under the Co-ordinated Maintenance of Building Scheme<sup>2</sup>. Furthermore, the Administration has been organizing publicity and public education activities on building safety covering various topics including removal of UBWs, alteration and addition works, and building maintenance etc., with a view to fostering a building safety culture among building owners.

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<sup>1</sup> The Hong Kong Housing Society used to operate three assistance schemes, namely the Building Maintenance Incentive Scheme, the Building Management Incentive Scheme and the Home Renovation Loan Scheme. The two schemes operated by the Urban Renewal Authority were the Building Rehabilitation Materials Incentive Scheme and the Building Rehabilitation Loan Scheme. On 1 April 2011, the five schemes were amalgamated into the "Integrated Building Maintenance Assistance Scheme" for building owners in need.

<sup>2</sup> According to the Administration, in association with six other government departments, BD conducts the "Coordinated Maintenance of Buildings Scheme" in various districts throughout Hong Kong. The purpose of the scheme is to assist building owners and owners' corporations in resolving building management and maintenance problems.

## **Major views and concerns expressed by Members**

15. Shortly after the building collapse incident on Ma Tau Wai Road in late January 2010, the Panel on Development set up the Subcommittee on Building Safety and Related Issues ("the Building Safety Subcommittee") to examine issues including, building inspection and maintenance, supervision of building maintenance, enforcement and penalties against unauthorized alteration works, etc. The Subcommittee so far has held five meetings to discuss with the Administration follow-up actions on the Ma Tau Wai Road Incident and measures to enhance building safety and maintenance.

16. On 23 February 2010, the Administration briefed the Panel on Development the enforcement actions taken against UBWs, and also sought the Panel's views on the future policy direction to address the problem. During the meeting, some members expressed concerns about the many management and hygiene problems associated with UBWs and BD's slow action in tackling UBWs, as well as the lack of assistance to building owners in clearing UBWs. These members also raised concerns about the professional competence of contract staff engaged by BD in assessing risks of UBWs and that BD staff were not provided with adequate equipment for undertaking inspection of old buildings.

17. The Administration advised that BD would review its staffing provision for enforcement actions against UBWs. As a multi-discipline department, BD required its staff to perform tasks related to building safety and maintenance and would not compromise on the professional quality of staff. As for clearance of UBWs, the Administration advised that while BD would provide assistance to owners upon request, owners were expected to coordinate clearance exercises among themselves.

18. On 13 January 2011, the Administration briefed the Building Safety Subcommittee on the multi-pronged measures to enhance building safety in Hong Kong. Some Subcommittee members considered that the Administration should accord high priority to tackle problems of UBWs, water seepage, and subdivided building units. However, members also cautioned that a tough approach against UBWs might lead to undesirable repercussion in the community, the Administration should therefore be flexible with its enforcement actions. There was a suggestion that the Administration might consider registering UBWs which had been in existence for a long period of time subject to certification of their structural safety. In fairness to all building owners, BD should adopt a unique arrangement giving owners same period of time to clear their UBWs. In

response to these suggestions, the Administration pointed out that when a stringent enforcement policy was in place, it would not be appropriate for individual officers of BD to exercise discretions deviating from the established policy in clearing UBWs.

19. Some Subcommittee members suggested the Administration enlist the support of legal professionals to deal with legal issues relating to UBWs. The Administration advised that it would strive to bring in adequate legal professionals in enhancing enforcement actions arising from UBWs.

20. Some Subcommittee members supported the proposal to set up a control regime to regulate signboards. The Administration advised that smaller signboards would be dealt with by MWCS. Larger signboards would continue to require BD's prior approval before erection.

21. On the concern about adequate resources for BD to undertake increased workload arising from the control of UBWs, the Administration advised that BD would undergo a major reorganization and strengthen staffing support to cope with increased workload arising from new measures to enhance building safety.

#### Council questions

22. LegCo Members have raised questions on different aspects of UBWs over the years. The more recent ones include questions raised by Hon LEUNG Kwok-hung and Hon Paul TSE Wai-chun at the Council meetings of 1 and 8 June 2011 respectively. For members' easy reference, an extract of the two questions and the Administration's replies are attached in **Appendix I**.

#### **Recent developments**

23. On 19 April 2011, the Ombudsman released the report of his direct investigation on UBWs in the New Territories Exempted Houses ("NTEHs"). The report has led to widespread concern in the community, after a series of news reports in local newspapers in May 2011 which brought to light that some high-ranking government officials, LegCo Members and public figures allegedly had UBWs at their properties. Problems relating to UBWs in urban areas and the New Territories and the control measures in this respect have aroused heated debates in the community.

24. The Panel will discuss with the Administration the control of UBWs under BO at the special meeting on 20 June 2011, and the regulation of UBWs in NTEHs at the regular meeting on 28 June 2011.

**Relevant papers**

25. A list of the relevant papers with their hyperlinks is in **Appendix II**.

Council Business Division 1  
Legislative Council Secretariat  
17 June 2011

### Question raised by the Hon Leung Kwok-hung in the Legislative Council on 1 June 2011

#### Question

Recently, various media have successively uncovered that there are quite a number of unauthorised building works (UBWs) in various districts throughout the territory. Furthermore, many village houses in the New Territories had additional storeys illegally built, and some even involve unauthorised occupation of government land. At the same time, the media have uncovered quite a number of cases in which District Council members (DC members), Legislative Council Members (LegCo Members) and accountable officials are suspected of erecting UBWs, illegally building additional storeys in their properties and occupying government land without authorisation. Some members of the public criticise that the Government knowingly ignore the issues of UBWs and building safety. In this connection, will the Government inform this Council of each of the following:

- (a) of the respective numbers of government staff dedicated to handle cases of UBWs, additional storeys built illegally and unauthorised occupation of government land on Hong Kong Island, in Kowloon and the New Territories at present;
- (b) of the numbers of prosecutions instituted by the Government regarding cases of UBWs, additional storeys built illegally and unauthorised occupation of government land on Hong Kong Island, in Kowloon and the New Territories over the past five years;
- (c) of the number of cases in which the Government was required to deploy manpower to take clearing action on UBWs, additional storeys built illegally and unauthorised occupation of government land in each of the past five years; and the aggregate amount of public money incurred in these clearing actions; and
- (d) whether it has estimated the manpower to be mobilised and the amount of public money to be used in the event that the Government is required to take clearing action on the aforesaid cases of UBWs, additional storeys built illegally and unauthorised occupation of government land involving the properties of DC members, LegCo Members and accountable officials; whether the expenses incurred are to be borne by the public?

## **Reply**

The Buildings Department (BD) and the Lands Department (LandsD) have respectively been taking appropriate enforcement actions against unauthorised building works (UBW) and unlawful occupation of unleased land (commonly known as "government land"). For some UBW on leased land (commonly known as "private land") which also constitute a contravention of the lease conditions, the LandsD would take appropriate lease enforcement action.

In enforcing the provisions of the Buildings Ordinance (Cap. 123), the BD adopts an enforcement policy which takes into account relevant factors such as building safety and availability of resources. In the decade since 2001, the BD had focused its enforcement actions (viz., issue of statutory orders for removal of the UBW and prosecution for failure to comply with the statutory orders) on high priority targets. These high priority targets included UBW which presents obvious hazard or imminent danger to life or property, newly built UBW or those targetted in large-scale operations, such as large canopies, large supporting frames for air-conditioners, UBW on rooftops of single-staircase buildings and UBW on canopies or cantilevered slab balconies. Since 1 April 2011, the BD has broadened the scope for UBW clearances and will implement new multi-pronged measures to foster building safety in Hong Kong.

Upon receiving enquiry or complaint cases, the LandsD will arrange for staff to conduct inspections. If unlawful occupation of government land is confirmed, the LandsD will post a notice pursuant to the Land (Miscellaneous Provisions) Ordinance (Cap. 28) to require the ceasing of occupation of the land concerned before a specified date. If the occupation of land persists, the LandsD will take further land control action which may include the clearance of the structures on the land concerned etc. If the identity of the offender is confirmed and sufficient evidence is available, the LandsD will consider instituting prosecution.

Where there is breach of land lease involving UBW etc, the LandsD will consider taking appropriate lease enforcement action, including issuing a warning letter to the lot owner concerned requesting rectification of the lease breaches. If the lot owner does not rectify the lease breaches by the deadline, the LandsD will generally register the warning letter at the Land Registry (commonly known as "imposing an encumbrance") and send a copy to the property mortgagee (if applicable).

Reply to the four-part question is as follows:

- (a) There are 477 professional and technical staff in the Existing Buildings Division of the BD, who are responsible for enforcement duties relating to private building safety and maintenance, including inter alia following up on reports of building dilapidation, handling complaints against UBWs and carrying out various large-scale UBW clearance operations. Their distribution by geographical regions is as follows:

<u>Number of staff for Hong Kong Island</u>	<u>Number of staff for Kowloon</u>	<u>Number of staff for the New Territories</u>
153	202	122

In addition, the BD will employ an additional 124 professional and technical staff in 2011-12 to launch various large-scale operations and new initiatives for enhancing building safety. Since the handling of UBWs is only part of the duties of the Existing Buildings Division, the BD does not have statistics on the number of staff specifically dedicated for the handling of UBW.

At present, the numbers of staff in the LandsD responsible for taking lease enforcement actions on private land and combating unlawful occupation of government land, broken down by geographical region, are listed below:

<u>Number of staff for Hong Kong Island</u>	<u>Number of staff for Kowloon</u>	<u>Number of staff for the New Territories</u>
25	27	198

We have to point out that land control and lease enforcement actions are only part of the spectrum of duties of the aforesaid staff. The LandsD does not have a breakdown for the number of staff for land control and lease enforcement work.

- (b) In regard to UBW and illegal erection of additional storeys, the BD may issue an order under section 24(1) of the Buildings Ordinance requiring the demolition or rectification of the UBW by the owner. The numbers of prosecutions instituted by the BD against non-compliance with such statutory orders in the five-year period from 2006 to 2010 are listed by geographical regions below:

Number of prosecutions

<u>Year</u>	<u>Hong Kong Island</u>	<u>Kowloon</u>	<u>New Territories</u>
2010	865	1 276	468
2009	833	1 566	664
2008	794	1 708	589
2007	603	1 664	754
2006	600	1 899	543

In the majority of cases involving unlawful occupation of government land, the irregularities are rectified upon receipt of notice from the LandsD. The numbers of prosecutions instituted by the LandsD against unlawful occupation of government land in the five-year period from 2006 to 2010, broken down by geographical regions, are listed below:

Number of prosecutions

<u>Year</u>	<u>Hong Kong Island</u>	<u>Kowloon</u>	<u>New Territories</u>
2010	2	0	5
2009	0	0	9
2008	0	0	13
2007	0	0	9
2006	0	0	17

As for private land, the LandsD acts in the private landlord capacity and takes lease enforcement action in accordance with the lease conditions. This does not involve prosecution.

- (c) Prior to the implementation in April 2011 of the new initiatives for enhancing building safety, the BD took different actions against UBW depending on the level of risks posed the UBW concerned and in accordance with the prevailing enforcement policy. In regard to UBW which had not been accorded high priority for enforcement (compared to the high priority targets mentioned earlier), the BD would normally issue advisory letters or warning notices requesting the owners to remove the UBW themselves. If the owner failed to comply with the warning notice by the deadline, the BD would normally register the warning notice at the Land Registry (commonly known as "imposing an encumbrance"). The BD normally would not take follow-up action on those UBW for which advisory letters had been issued.

In regard to the more serious cases or cases that had been accorded high priority for enforcement, the BD might issue an order under section 24(1) of the Buildings Ordinance requiring the demolition or rectification of the UBW by the owner. Where the owner failed to comply with the order by the specified date, the BD would normally institute prosecution action under section 40(1BA) of the Buildings Ordinance, except for UBW which constituted obvious hazards, which would be removed by government contractors. In the past, this approach had produced results.

In the light of the past practice, there had not been many cases for demolition by government contractors. The BD does not maintain statistics for them. Where demolition works had been carried out by BD's contractors, BD would recover the full costs of the works, including supervision charges, from the owners.

The numbers of cases of unlawful occupation of government land in which clearance action was taken by the LandsD in each of the five years from 2006 to 2010 are as follows:

<u>Year</u>	<u>Number of cases of unlawful occupation of government land in which clearance action was taken</u>
2010	2 584
2009	3 132
2008	2 422
2007	1 649
2006	1 712

Such clearance actions were carried out by staff responsible for land control actions. The LandsD does not keep a separate account for the expenses so incurred.

- (d) In taking law enforcement and lease enforcement actions, the BD and the LandsD treat all the people involved equally, regardless of their status or identity. Therefore, separate estimations on manpower and resources required for handling cases involving different categories of people cannot be made.

In regard to UBW cleared by BD contractors, the cost of works, including supervisory charges, would be recovered in full from the persons concerned. As explained in part (c) above, the LandsD does not keep a separate account for expenses incurred in clearance actions involving the illegal occupation of Government.

**Question raised by the Hon Paul TSE Wai-chun in the Legislative Council on 8 June 2011**

**Question**

There have been comments that although the Government had legislation and relevant systems providing clear instructions on the demolition of unauthorised building works (UBWs) in the past, the lax enforcement of the laws over the years had resulted in the proliferation of UBWs, making it difficult to rectify the situation. In this connection, will the Government inform this Council:

- (a) whether it has estimated the time needed by the Buildings Department (BD) to properly handle the problem of UBWs with its existing resources; apart from the cases of UBWs recorded by BD at present, whether it has estimated the current number of suspected unauthorised building structures;
- (b) whether it has studied if in the past the procedures and formalities for applying for alterations of building structures even as simple as changes in the positions of drying racks and supporting frames for air-conditioners were very complicated, and the processing time for such applications was too long, causing much nuisance to the public, and as a result members of the public would rather erect UBWs because they were tired of the bureaucratic procedures; if the results of such a study are in the affirmative, and on the basis of the minor works policy reform, of the means to further simplify the application procedures and shorten the processing time for applications and appeals; if not, whether it can conduct the study immediately; and
- (c) whether it has considered following the practice of the former Squatter Control Unit (commonly known as "hut division") in dealing with UBWs many years ago by specifying a cut-off date and exempting UBWs already existed before such a date from demolition, but requesting owners of the buildings concerned to engage qualified persons to verify the compliance of such UBWs with safety standards and pay additional premium or government rent to the Government, and new UBWs erected after the specified cut-off date have to be demolished mandatorily; if it has, of the details; if not, whether it can consider as soon as possible; and whether it has any plan to comprehensively tackle or "rationalise" the serious proliferation of UBWs in buildings?

## **Reply**

President,

I would like to thank Hon. Paul Tse Wai-tsun for raising this oral question today. It allows me to elaborate once more the Government's enforcement policy necessary for ensuring building safety. The Buildings Department (BD), empowered by the Buildings Ordinance (Cap. 123) (BO), is responsible for controlling building works on private land. Except for building works exempted by the BO or other legislation, and those designated as minor works under the Minor Works Control System (MWCS) which was implemented on December 31 last year, parties concerned must first obtain the approval of plans and consent to the commencement of works from the Building Authority (BA) before commencing any building works; otherwise those works will become unauthorised building works or unauthorised structures (collectively known as UBWs). As regards those works that are carried out in private buildings and do not involve the structure of the building, they are exempted works. However, these works will become UBWs if they contravene any of the building regulations. On the first point, the main focus on the statute has been clearly on whether such works "do not involve the structure of the building". As for the second point, the meaning is that even though works that do not involve the structure of a building are exempted works, such works are unauthorised if they cause a building to contravene the building designs stipulated in the regulations (e.g. fire safety specifications, loading, natural lighting and ventilation, etc.). On the other hand, it is not necessary for the BA to approve the exempted nature of exempted works.

Building safety is a matter of serious concern to this Council. Since the building collapse incident in Ma Tau Wai Road in January last year, I have attended 3 motion debates of the Legislative Council (LegCo) and replied to 16 oral and written questions. These replies of the Government have sufficiently illustrated our focus on building safety and have listed out the achievements of BD's enforcement action over the years. In accordance with the enforcement policy on demolition of UBWs formulated in 2001, the BD had dealt with the problem of UBWs by prioritising its work and in an orderly manner. The Department accorded high priority to clearing those UBWs constituting obvious or imminent danger to life or property, newly erected UBWs and UBWs constituting a serious health hazard or a serious environmental nuisance.

The hundreds of frontline staff members of the BD had been handling UBWs in accordance with clear enforcement policy and guidelines. Regarding the more serious cases or cases that had been accorded high priority for clearance, the BD would issue orders under

section 24(1) of the BO requiring the owners to remove or rectify the UBWs concerned. If the owners failed to comply with the orders by the specified dates, the BD would generally instigate prosecution action under section 40(1BA) of the BO in order to urge the owners to remove their UBWs voluntarily, except for those UBWs with obvious danger which would have to be removed by Government contractors. While this approach had been quite effective in the past, it involved an inevitably long prosecution procedure.

Regarding the UBWs which had not been accorded high priority for clearance, the BD would, depending on the situation, serve advisory letters or warning notices requesting the owners to remove the UBWs voluntarily. If an owner failed to remove the UBWs specified in the warning notice by the deadline, the BD would register the warning notice at the Land Registry (commonly known as "imposing an encumbrance"). If only an advisory letter was served, no further follow-up actions would be taken in general.

Over the past ten years, the BD had conducted sustained enforcement actions against UBWs and had succeeded in removing over 400,000 UBWs. The large number of iron cages and projections affixing to the exterior of buildings have largely disappeared as well, reducing the threat to pedestrians walking on the streets. As such, I can hardly agree with the comment in the question that "the lax enforcement of the laws over the years had resulted in the proliferation of UBWs and made it difficult to rectify the situation".

In view of the completion of this ten-year UBWs demolition programme in March this year, and the fact that the Members and the public are still paying close attention to building safety, in particular the requests expressed by the councillors from districts to the Administration over the years for further clearing those UBWs not constituting imminent danger, the Development Bureau and the BD have conducted a comprehensive review on the strategy to enhance building safety. We will enhance further the building safety of Hong Kong through the four major aspects of legislation, enforcement, support and assistance to owners as well as public education. For legislation, apart from the full implementation of the MWCS by the end of 2010, we will work closely with the LegCo on its scrutiny of the bill for the Mandatory Building and Window Inspection Schemes. As for enforcement, it is considered that the scope of actionable UBWs should be extended and the enforcement actions should be stepped up. Meanwhile, resources will be consolidated to help owners carry out building repair works and rectify irregularities voluntarily. Moreover, major publicity and public education campaigns will be launched to encourage public participation in monitoring building safety, thereby

promoting a culture for building safety. Since its announcement by the Chief Executive in his Policy Address last year, this four-pronged approach has received wide support from the LegCo, the District Councils and the society.

My reply to the three-part question is as follows:

- (a) Although the number of existing UBWs in Hong Kong has been significantly reduced by more than 400,000, in view of the extensiveness and complexity of the problem of UBWs, it is not possible to get a quick fix of the problem solely by having the BD, with its limited resources, serve removal orders, instigate prosecutions against owners or remove UBWs on behalf of owners. Nonetheless, the BD, as a professional team, will endeavour to deal with the problem of UBWs in accordance with the law and the policy; the Bureau will also provide the necessary support.

To have a more comprehensive understanding of the current number and overall situation of UBWs, the BD has awarded contracts to a number of consultant companies for conducting a stock-taking exercise on those UBWs on the exterior of some 41,000 private buildings in Hong Kong in the coming year. This will enable the BD to set up a comprehensive database, with records on the types and number of UBWs on the exterior of private buildings, in order to make appropriate arrangements for prioritising its enforcement actions and conducting various large scale operations (LSOs). The cost for the whole exercise is estimated at around \$27 million.

The above large-scale stock-taking exercise will give us a clearer picture of the number of UBWs to be handled as well as the corresponding enforcement strategy. However, I would like to appeal to the Members for their understanding that there is a need for us to continuously carry out our work in maintaining building safety. As such, the Administration has provided the BD with new resources in this financial year, including 177 permanent civil service posts. This is different from our practice of relying on time-limited non-civil-service-contract staff in the past decade.

- (b) The second part of the question has pointed out a situation which required substantial improvement under the earlier versions of the BO that all building works, regardless of their scales and complexity, were governed by the same building control regime. Before commencing any building works, one must obtain from the BA his approval on the building plans prepared by authorised persons, and his consent to the commencement of works. This system did not

distinguish works for the construction of new buildings from minor building works, which were of a simple nature, carried out in existing buildings. Thus, quite a number of minor works had been carried out without complying with the law, and hence became UBWs. Although "erecting UBWs because one was tired of the bureaucratic procedures" , as Hon Tse has mentioned, is not approved or encouraged by the society, the Administration agrees that more convenient arrangements should be made.

With years of incubation, over 3 years of scrutiny by the LegCo and 12 months of preparation by the BD, the MWCS was fully implemented at the end of last year. This system has simplified the relevant procedures, providing a lawful, simple, safe and convenient means for owners to carry out a total of 118 minor work items. When carrying out these minor works, owners will no longer need to hire authorised persons for submitting plans and obtaining the prior approval of plans and consent to the commencement of works from the BD. Through the simplified requirements, an owner can hire prescribed building professionals and/or registered contractors to carry out minor works. As it is no longer necessary to wait for the BA's approval under the statutory procedures, the time for carrying out such works can be substantially shortened for up to three months, together with a corresponding reduction in the costs involved.

Taking into consideration the needs of the public in their daily lives, a Household Minor Works Validation Scheme (Validation Scheme) has also been established under the MWCS, allowing owners to retain and continue to use, after safety inspections and validations, three types of household minor works items, namely air-conditioner supporting frames, drying racks and small canopies, already installed without obtaining the prior approval and consent to the commencement of works from the BA. Enforcement actions will not be taken by the BD against these validated, yet still unauthorised, minor building works items unless there is a change in the safety conditions. We are proposing the introduction of a similar validation scheme for existing unauthorised signboards.

The MWCS, launched for nearly half a year, has been well received by the community. Until the end of May, 7 800 minor works contractors have been successfully registered. The BD has also received nearly 7 000 submissions of various types in carrying out minor works. While we will closely monitor the progress of the implementation of the MWCS, we will also continue to step up the

public education and publicity work to encourage owners to adopt the MWCS to carry out minor works.

- (c) On the issue of handling the problem of UBWs, the Administration will take a pragmatic stance, handling the issue in accordance to the priorities and by categories. From according priority to those UBWs constituting obvious or imminent danger to life and property in the past decade, to the extension of the scope of clearance action (to include specified types of existing UBWs without imminent danger) in April this year, our policies have been formulated under the same philosophy. Any policy adopted by the Administration must observe two very important principles, i.e. building safety must come first and there will be no compromise on the integrity of the BO.

It is proposed in the third part of the question that UBWs in existence before a specified date be exempted from demolition if the safety standards can be ascertained and the "land premium or government rent" have been paid. In fact, similar proposal has been put forth in the community recently. Once again, I would like to reiterate that any building works carried out or any structures completed not in compliance with the BO are unauthorised and will not be possible to become legalised through any administrative measures. The BA, in accordance with the BO, will only consider issues related to building safety, hence the proposal of exempting UBWs from regulation under the BO upon payment of a land premium is neither feasible nor reasonable. If owners with financial means can retain their UBWs by a payment, then is it fair to those owners without financial means? And is it fair to those owners whose UBWs were cleared under the policy or those who had voluntarily removed their UBWs after receiving advisory letters in the past decade?

In line with our pragmatic stance, we have made legislative amendments to include in the Validation Scheme certain existing minor unauthorised items not posing a serious hazard to building safety, such as air-conditioner supporting frames, drying racks, small canopies and unauthorised signboards (which is being proposed). Since not every type of unauthorised structures can be validated to ensure their safety solely by post-checking, there would be some difficulties to extend the aforementioned Validation Scheme to cover other existing UBWs of a more complicated nature and a comparatively higher level of risk.

In fact, even after extending the scope of actionable UBWs, the BD will only be clearing those UBWs on the exterior of buildings. The Department has also formulated internal guidelines for dealing with

these UBWs. As those UBWs newly treated as actionable will not constitute an imminent danger and will not result in a serious nuisance to the public, we will allow sufficient time to the owner to arrange for the demolition works and BD will provide one-stop assistance to owners through the "building coordinators" upon the reorganisation of the Department, etc. I trust that adopting this package of measures will fit better with our principle of acting in accordance with the law and fair treatment than any arrangement of "amnesty", "rationalisation" or "exemptions from demolition". It can also handle the problem of UBWs in Hong Kong in a more effective manner.

## Unauthorized building works

### List of relevant papers

Council/Committee	Date of meeting	Paper
Council meeting	12 December 2007	An oral question on "Unauthorized building works" raised by Hon Albert HO and the Administration's reply <a href="http://www.info.gov.hk/gia/general/200712/12/P200712120181.htm">http://www.info.gov.hk/gia/general/200712/12/P200712120181.htm</a>
Council meeting	16 January 2008	A written question on "Unauthorized building works" raised by Dr Hon YEUNG Sum and the Administration's reply <a href="http://www.info.gov.hk/gia/general/200801/16/P200801160184.htm">http://www.info.gov.hk/gia/general/200801/16/P200801160184.htm</a>
Council meeting	16 January 2008	A written question on "Removal of unauthorized building works" raised by Hon LEE Wing-tat and the Administration's reply <a href="http://www.info.gov.hk/gia/general/200801/16/P200801160177.htm">http://www.info.gov.hk/gia/general/200801/16/P200801160177.htm</a>
Panel on Development	23 February 2010	Administration's paper on progress of enforcement action against unauthorized building works [LC Paper No. CB(1)1157/09-10(06)] <a href="http://www.legco.gov.hk/yr09-10/english/panels/dev/papers/dev0223cb1-1157-6-e.pdf">http://www.legco.gov.hk/yr09-10/english/panels/dev/papers/dev0223cb1-1157-6-e.pdf</a>  Paper on unauthorized building works prepared by the Legislative Council Secretariat (Background brief) [LC Paper No. CB(1)1157/09-10(07)] <a href="http://www.legco.gov.hk/yr09-10/english/panels/dev/papers/dev0223cb1-1157-7-e.pdf">http://www.legco.gov.hk/yr09-10/english/panels/dev/papers/dev0223cb1-1157-7-e.pdf</a>

Council/Committee	Date of meeting	Paper
		Minutes of the meeting [LC Paper No. CB(1)1712/09-10] <a href="http://www.legco.gov.hk/yr09-10/english/panels/dev/minutes/dev20100223.pdf">http://www.legco.gov.hk/yr09-10/english/panels/dev/minutes/dev20100223.pdf</a>
Council meeting	1 December 2010	A written question raised by Ir Dr Hon Raymond HO on safety of buildings <a href="http://www.info.gov.hk/gia/general/201012/01/P201012010238.htm">http://www.info.gov.hk/gia/general/201012/01/P201012010238.htm</a>
Subcommittee on Building Safety & Related Issues	13 January 2011	Administration's paper on measures to enhance building safety in Hong Kong <a href="http://www.legco.gov.hk/yr10-11/english/panels/dev/dev_bs/papers/dev_bs0113cb1-681-1-e.pdf">http://www.legco.gov.hk/yr10-11/english/panels/dev/dev_bs/papers/dev_bs0113cb1-681-1-e.pdf</a>  Minutes of the meeting [LC Paper No. CB(1)1949/10-11] <a href="http://www.legco.gov.hk/yr10-11/english/panels/dev/dev_bs/minutes/bs20110113.pdf">http://www.legco.gov.hk/yr10-11/english/panels/dev/dev_bs/minutes/bs20110113.pdf</a>
Council meeting	18 May 2011	An oral question raised by Hon LEE Wing-tat on unauthorized building works in village houses in New Territories <a href="http://www.info.gov.hk/gia/general/201105/18/P201105180264.htm">http://www.info.gov.hk/gia/general/201105/18/P201105180264.htm</a>
Council meeting	1 June 2011	A written question raised by Hon LEUNG Kwok-hung on unauthorized building works <a href="http://www.info.gov.hk/gia/general/201106/01/P201106010211.htm">http://www.info.gov.hk/gia/general/201106/01/P201106010211.htm</a>
Council meeting	8 June 2011	An oral question raised by Hon Paul TSE Wai-chun on unauthorized building works <a href="http://www.info.gov.hk/gia/general/201106/08/P201106080210.htm">http://www.info.gov.hk/gia/general/201106/08/P201106080210.htm</a>