

立法會
Legislative Council

LC Paper No. CB(1)2482/11-12
(These minutes have been seen
by the Administration)

Ref: CB1/PS/2/09/1

Panel on Development

Subcommittee on Building Safety and Related Issues

**Minutes of the meeting held on
Wednesday, 9 May 2012, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Members present : Prof Hon Patrick LAU Sau-shing, SBS, JP (Chairman)
Hon KAM Nai-wai, MH (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, SBS, JP
Hon LEE Wing-tat
Hon CHEUNG Hok-ming, GBS, JP
Hon Starry LEE Wai-king, JP
Dr Hon Priscilla LEUNG Mei-fun
Hon IP Kwok-him, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC

Member absent : Hon Tanya CHAN

Public officers attending : **Agenda item II**

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

Mr Rex CHANG Wai-yuen, JP
Deputy Secretary for Development
(Planning and Lands)²

Mr Ryan CHIU Pit-ming
Principal Assistant Secretary for Development
(Planning and Lands)³

Mr AU Choi-kai
Director of Buildings

Mr CHEUNG Tin-cheung
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 Confirmation of minutes**
(LC Paper No. CB(1)1680/11-12 -- Minutes of meeting on
8 December 2011)

Minutes of the meeting held on 8 December 2011 were confirmed without amendment.

- II Matters relating to unauthorized subdivided domestic cubicles and alteration in industrial buildings**
(LC Paper No. CB(1)1748/11-12(01) -- Administration's paper on
unauthorized subdivided
domestic cubicles and
alteration in industrial
buildings
LC Paper No. CB(1)1377/11-12(01) -- Letter from Hon LEE
Wing-tat dated
27 February 2012)

Action

2. The Subcommittee deliberated (Index of proceedings at **Appendix**).

3. Members expressed concern about owners of industrial buildings changing their premises into domestic use without obtaining approval from the relevant authorities. According to the Administration, for cases which did not involve unauthorized building works, the Buildings Department ("BD") would issue order under the Buildings Ordinance (Cap. 123) requiring owners and/or the occupier to discontinue the domestic use, and would instigate prosecution if owners failed to comply with the order. The Administration was requested to provide the following information --

- (a) time taken for BD to instigate prosecution on cases of unauthorized change in use of industrial buildings to domestic use;
- (b) number of prosecution on such cases made in the past five years; and
- (c) number of convicted cases and the penalties imposed by the court.

(Post-meeting note: The Administration's supplementary information was circulated to members on 5 June 2012 vide LC Paper No. CB(1)2103/11-12(01).)

III Any other business

4. There being no other business, the meeting ended at 9:40 am.

Panel on Development

Subcommittee on Building Safety and Related Issues

**Proceedings of the meeting on
Wednesday, 9 May 2012, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
I. <u>Confirmation of minutes</u>			
000047 – 000229	Chairman	Confirmation of minutes of meeting held on 8 December 2011	
II. <u>Matters relating to unauthorized subdivided domestic cubicles and alteration in industrial buildings</u>			
000230 – 001017	Administration	<p><u>Briefing by the Administration</u></p> <p>(a) Building and fire safety problems associated with subdivided flats in domestic buildings and domestic units of composite buildings had aroused grave public concern in recent years. Given the complexity of the issues involved and the genuine demand for such flats, the Administration's policy was to enhance safety of the flats rather than to eradicate them.</p> <p>(b) The Buildings Department ("BD") had launched a large scale operation ("LSO") since April 2011 aiming to rectify irregularities of building works associated with subdivided flats. With additional resources, BD had increased the annual number of target buildings under the LSO from 116 in 2011 to around 370 in 2012 (including 30 industrial buildings suspected to have subdivided flats). In response to the fire incident in Fa Yuen Street in 2011, BD had accorded priority in taking enforcement at target buildings in the vicinity of hawker stalls.</p> <p>(c) On the legislation front, the Administration introduced the Buildings</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>Legislation (Amendment) Bill 2011 into the Legislative Council ("LegCo") in November 2011 to empower BD officers to apply for court warrant for entry into premises to facilitate enforcement action, including inspection of subdivided flats. In May 2012, the Administration tabled the Building (Minor Works) (Amendment) Regulation 2012 in LegCo to extend the Minor Works Control System ("MWCS") to include common building works involved in the construction of subdivided flats to ensure that such works would be carried out by qualified professionals and in a manner compliant with the Buildings Ordinance ("BO").</p> <p>(d) Subdivided flats in industrial buildings posed far higher risks to occupants since part of these buildings were or could still be used for industrial activities or storage of dangerous and inflammable goods. To uphold public safety, in particular the safety of those living therein, BD had been taking stringent enforcement against subdivided flats in industrial buildings.</p> <p>(e) The Administration had been proactive in following up cases involving subdivided domestic cubicles in industrial buildings raised by Mr LEE Wing-tat. For the recent case in an industrial building in Larch Street, Tai Kok Tsui, which involved some 60 subdivided cubicles, assistance provided to the occupants affected by the BD's enforcement action included relocation allowance under the Community Care Fund, assistance for the occupants in seeking alternative accommodation and other social assistance.</p> <p>(f) As regards conversion and redevelopment of industrial buildings for residential use, given the many constraints such as the need to comply with the conditions in the relevant land leases, requirements in the Town</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>Planning Ordinance ("TPO") (Cap. 131) and statutory plans, there would be great difficulty in pursuing the option.</p>	
001018 – 001306	Chairman Administration	<p>The Chairman's enquiry on the re-housing arrangements for occupants of the subdivided domestic cubicles in the Larch Street case</p> <p>The Administration's response that in the Larch Street case, the 60 subdivided cubicles involved 79 households. Of these 79 households, one household, who had been on the public rental housing ("PRH") waiting list, was offered a PRH unit and 56 households (including 15 households settled in singleton hostels) had found alternative accommodation with assistance from social workers (including 6 households that were offered compassionate housing in PRH and 4 households that were provided temporary accommodation in transit centres).</p>	
001307 – 002628	Mr James TO Administration Chairman	<p>Mr James TO declared interest as a non-executive director of the Urban Renewal Authority.</p> <p>Mr TO expressed support for the Administration's approach in handling subdivided domestic cubicles in industrial buildings. He opined that the existence of subdivided flats in industrial buildings reflected an acute shortage of affordable housing in urban areas. Redevelopment of PRH estates in urban areas would be a viable solution to cope with housing shortage in urban areas, and it was necessary for the Administration to formulate a long-term strategy to deal with the pressing and growing demand for housing.</p> <p>Mr TO asked whether mini-storage rooms in industrial buildings had been turned into subdivided domestic cubicles, the Administration's enforcement against industrial premises which had been unlawfully turned into luxurious apartments, and how the Administration would encourage the public to report cases of subdivided flat units and unauthorized alteration of industrial premises for domestic use.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>The Administration's response that --</p> <ul style="list-style-type: none"> (a) The Administration had been exploring feasible ways to increase land supply for housing development through the Steering Committee on Housing Land Supply chaired by the Financial Secretary. (b) While redevelopment of aged PRH estates would be effective in addressing shortage of housing units in urban areas, the Administration had to resolve the major obstacle that PRH residents had insisted to be re-housed within the same district. (c) The Administration did not have information on mini-stores in industrial buildings being turned into subdivided domestic cubicles. The failure to get entry into premises suspected to have subdivided flat units was the main difficulty faced by BD in taking enforcement against unauthorized alteration in industrial buildings. (d) Various channels, including website, Hotline 1823 Call Centre and e-mails, were available for the public to report on unauthorized subdivided flats. <p>The Chairman's comment that the Administration should step up public education and publicity to encourage the public to report cases of subdivided flats in industrial buildings</p>	
002629 – 003437	Mr Paul TSE Chairman Administration	<p>Mr Paul TSE's views that --</p> <ul style="list-style-type: none"> (a) Alteration of industrial buildings for residential use was attributed to imbalance between demand and supply of affordable housing in urban areas, the attractive rents of subdivided flats in industrial buildings, and increasing popularity of "home-office". (b) Given the complexity of issues involved in subdivided flats and unauthorized 	

Time Marker	Speaker	Subject(s)	Action Required
		<p>building works ("UBWs"), the Administration must tackle the problems upholding equality, in accordance with the law, and taking into account difficulties faced by the affected occupants and aspirations of the community at large.</p> <p>The Administration's response that --</p> <p>(a) As pointed out in the judgement of a recent court case involving enforcement of UBWs, BD's enforcement actions were subject to resources restraints and other considerations rather than inadequate power under the current law. In the past 10 years, due to resources constraints, BD had to tackle the UBW problem in a pragmatic and progressive manner having regard to the risks posed by the concerned UBWs on public safety.</p> <p>(b) In taking enforcement against subdivided flats and UBWs, the Administration would ensure all actions were lawful, reasonable and sympathetic to the needs and feelings of the affected parties, and would endeavour to provide assistance to affected occupants as appropriate. This approach was evidenced in the enforcement of the Larch Street case, where financial, re-housing and social assistance were provided to affected occupants.</p>	
003438 – 004150	Deputy Chairman Administration	<p>Deputy Chairman's concerns/enquiries about --</p> <p>(a) Enforcement against subdivided domestic cubicles in industrial buildings was inadequate.</p> <p>(b) The problem of conversion of industrial premises into luxurious residential apartments was getting serious.</p> <p>(c) Whether the owner of an industrial building could apply for covering approval after converting the building</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>into residential use. If covering approval would be given, owners might make use of this loophole to delay their application.</p> <p>The Administration's response that --</p> <p>(a) Under the existing development control regime, only buildings located on sites with zoning permitting residential use could be used for residential purpose. There were also constraints, including the need to comply with TPO and the lower plot ratio and site coverage for residential development. As a result, it would be extremely difficult for owners of industrial buildings to convert their buildings to residential use.</p> <p>(b) The revitalization scheme for older industrial buildings introduced in the Chief Executive Policy Address 2009-2010 was not intended to provide more residential units.</p> <p>(c) Following a media report on the alteration of units to residential use in an industrial building in Aberdeen, BD had conducted inspection to the subject building and found that the alteration was unauthorized. BD would issue statutory orders to require the owners to discontinue the residential use.</p>	
004151 – 005109	Mr Alan LEONG Administration	<p>Mr Alan LEONG's views/enquiries about --</p> <p>(a) Civic Party supported the Administration's enforcement policy against subdivided domestic cubicles and unauthorized alteration in industrial buildings.</p> <p>(b) Details of the re-housing arrangements for occupants of the subdivided cubicles in the Larch Street case, and whether there would be adjustment in the enforcement plan and timetable against UBWs in New Territories ("NT") village houses given the latest developments on the subject.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>The Administration's response that --</p> <p>(a) The 60 subdivided domestic cubicles in the Larch Street case involved 79 households, among which 56 households had found alternative accommodation with assistance from BD's social workers, and the rest of 23 households had arranged alternative housing by themselves. 61 household were provided with relocation allowance, 15 households were offered singleton hostels, 6 households were granted compassionate housing in PRH, and 4 households were settled in transit centres.</p> <p>(b) Enforcement against UBWs in NT village houses was making progress. The deadline for owners to register the less serious UBWs constructed in village houses was 30 September 2012. BD had engaged consultants to undertake inspection in nine pilot villages to identify first-round UBWs targets which involved higher risks and more serious contravention of the law. It was estimated that the first batch of removal orders for the first-round targets would be issued before end of June 2012. Promotion and publicity work against UBWs in village houses would continue.</p> <p>(c) As regards enforcement against UBWs in other buildings, in 2012, BD planned to conduct inspection to around 370 target buildings which were suspected to have subdivided flat units. The Administration would strive for passage of the bill empowering BD officers to apply court warrant for entry into premises for conducting inspections.</p>	
005110 – 010141	Mr LEE Wing-tat Administration Chairman	Mr LEE Wing-tat expressed support for the Administration to strengthen enforcement against subdivided domestic cubicles in industrial buildings. He was concerned about the long time taken for BD to take enforcement against unauthorized alteration	The Administration to take action under paragraph 3

Time Marker	Speaker	Subject(s)	Action Required
		<p>in the uses of industrial buildings, as owners might turn the premises into residential use and make profits.</p> <p>The Administration's response that --</p> <p>(a) The greatest difficulty in taking enforcement against unauthorized alteration in industrial buildings was the failure for BD staff to access the premises for conducting inspection. If inspection was made confirming the breach of relevant requirements under the BO arising from change in use of the building, BD in general could issue an order to require the owner to discontinue the unsuitable use within a month. If UBWs were found inside the industrial premises, BD would issue an order requiring the owner to rectify the irregularities. BD would consider instigating prosecution against the owner if he failed to comply with the order. For UBWs posing higher risks, BD would consider issuing closure order to close down the premises and arranging Government contractors to demolish the UBWs and recover the costs from the concerned owners.</p> <p>(b) The Administration would provide the following information to the Subcommittee: (i) time taken for BD to instigate prosecution on cases of unauthorized change in use of industrial buildings to domestic use; (ii) number of prosecution on such cases made in the past five years; and (iii) number of convicted cases and the penalties imposed by the court.</p> <p>The Chairman's comments that the penalties imposed by the court should have sufficient deterrent effect</p> <p>The Administration's response that it would be difficult to collect evidence on whether the owner had breached the lease conditions in changing the uses of an industrial building, and the Lands Department ("LandsD") would</p>	

Time Marker	Speaker	Subject(s)	Action Required
		interfere in cases if the alteration of uses contravened the lease conditions	
010142 – 010529	Ms Starry LEE Administration	<p>Ms Starry LEE appreciated the prompt action taken by the Administration in the Larch Street case. She enquired about the situation in applying closure order from the court and whether LandsD would examine land leases in urban areas to ascertain if there was contravention and take enforcement actions accordingly.</p> <p>The Administration's response that --</p> <p>(a) In order to ensure safety of occupants living in UBWs, BD would apply for a closure order to close down the premises and then engage a contractor to demolish the UBWs if the owner failed to do so. The court would usually accede to BD's request and grant the order.</p> <p>(b) LandsD would take enforcement against breaches of lease conditions as necessary. It would take action upon receipt of complaints or through regular inspections.</p>	
010530 – 011020	Chairman Administration	<p>The Chairman's view that in order to revitalize older industrial buildings and release industrial land for residential purpose, it was necessary for the Administration and the Town Planning Board to step up efforts in these areas from the town planning perspective</p> <p>The Administration's response that --</p> <p>(a) The Administration had adopted a multi-pronged approach in exploring various options in expanding land resources to meet increasing housing demand.</p> <p>(b) The revitalization of industrial buildings for residential use faced many difficulties, including zoning restrictions (e.g. currently only 139 of some 1 400 industrial buildings were located on sites with zoning permitting residential use),</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>constraints in wholesale conversion, multiple ownership in industrial buildings, and stringent requirements in plot ratio and building designs for residential development.</p> <p>(c) While redevelopment of industrial buildings for residential purpose posed a lot of difficulties, changing industrial land for uses of hotels and youth hostels was less complicated.</p>	
<p>III. <u>Any other business</u></p>			
011021 – 011045	Chairman	Ending remarks	