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Panel on Development

Meeting on 28 February 2012

Background brief on the Minor Works Control System

Purpose

This paper provides background information on the Minor Works Control System ("MWCS") and the Administration's measures to control building works relating to subdivided flat units, and summarizes major views and concerns expressed by Members on related issues.

Minor Works Control System

2. Prior to implementation of MWCS, the building control system as specified under the Buildings Ordinance ("BO") (Cap. 123) applied to all building works regardless of their scale and complexity. Approval of building plans and consent to commence building works must be obtained from the Building Authority ("BA") before commencement of such works. The costs and time involved in complying with these requirements were often disproportionate to the scale of the works. As a result, many minor building works were carried out without complying with BO, and therefore became unauthorized building works ("UBWs").

3. In view of the above, the Administration introduced the Buildings (Amendment) Bill 2007 to put in place MWCS. The Bill was passed by the Legislative Council ("LegCo") in June 2008 and was enacted as the Buildings (Amendment) Ordinance 2008. MWCS aims to facilitate members of the public to carry out minor works in private buildings lawfully through simplified procedures and thereby improving building safety in Hong Kong. The modus operandi of MWCS are specified in the Building (Minor Works) Regulation ("B(MW)R"), which were enacted

through negative vetting of LegCo in May 2009.¹ MWCS was fully implemented on 31 December 2010. Key features of MWCS are set out in the ensuing paragraphs.

Simplified requirements for carrying out minor works

4. A new category of buildings works, i.e. "minor works", is introduced under MWCS. Minor works are classified into three classes according to their scale, complexity and risk to safety. Currently, the three classes of minor works cover a total of 118 items with details set out as follows –

- (a) Class I (40 items) includes mainly those relatively more complicated minor works (e.g. installation of internal staircases connecting two floors);
- (b) Class II (40 items) comprises those of comparatively lower complexity and risk to safety (e.g. repair of external walls); and
- (c) Class III (38 items) mainly includes common household minor works (e.g. erection of supporting frames for air-conditioners).

A table showing details of 118 designated minor works is at **Appendix I**.

5. Designated minor works can be carried out through simplified requirements without prior approval of BA. Any person, whether the owners themselves or their agents, is required to appoint Prescribed Building Professionals/Prescribed Registered Contractors to carry out the minor works. These building professionals and contractors have to notify BA and submit records and certificates to BA according to the procedures under the simplified requirements. A flow chart for the carrying out of minor works is shown at **Appendix II**.

Registration of minor works contractors

6. A register of minor work contractors is established under MWCS. Contractor companies and individual practitioners can register as Registered Minor Works Contractors of the relevant classes and types of items by virtue of their work experience, qualifications and competence.

¹ Please visit Buildings Department's website at http://www.bd.gov.hk/english/services/index_buildingAmendment.html

Household Minor Works Validation Scheme

7. A Household Minor Works Validation Scheme is established under MWCS to facilitate members of the public to retain, after validation, minor household installations, such as air-conditioner supporting frames, drying racks and small canopies, which have been constructed without prior approval from BD before the introduction of MWCS.

Designated exempted works

8. MWCS has introduced 15 items of "designated exempted works". The complexity and risk to safety posed by the exempted works are lower than those of the minor works. Such works may be commenced without prior approval of BA and without the need to appoint building professionals and registered contractors for the carrying out of the works.

Control of subdivided flat units

The problem of subdivided flat units

9. According to the Administration, subdivided flat units generally refers to the sub-division of a flat unit into two or more individual units. Problems arising from subdivided flat units have aroused grave public concern in recent years. In particular, there have been growing concern about addition of unauthorized door openings to flats which contravene fire regulations and pose threat to means of escape in case of fire, additions of openings for ventilation affecting the integrity of fire resisting construction, improper drainage works causing water seepage, and overloading of the building due to additional of non-structural partition walls and thickened floor screeding.² The serious fires broke out in a tenement building in Ma Tau Wai Road in June 2011 and the one from hawker stalls in Fa Yuen Street which later spread to nearby buildings with subdivided flat units in November 2011 have demonstrated the urgent need to tackle the problem of subdivided flat units.

10. The associated building works in subdivided flat units usually involve the removal of the original non-structural partition walls, erection of new non-structural partition walls, installation of new toilets and kitchens, alteration or addition of internal drains for the additional toilets/kitchen, as well as the thickening of floor screeding to accommodate

² Please refer to Building Department's website on sub-division of flat units at http://bd.gov.hk/english/services/index_faqJ.html.

new/diverted pipes, etc. Internal drainage works within building units has been designated as minor work under MWCS.

11. As explained by the Administration, the building works associated with subdivided flats units may not necessarily be UBWs. Under section 41(3) and 41(3C) of BO, certain building and drainage works (other than minor works) that do not involve the structure of the building can be carried out without obtaining BA's prior approval. The erection of non-structural partition wall is an example of exempted building works. Nevertheless, erection of partition walls in domestic premises has to comply with the building standards stipulated in the building regulations, such that these walls would not cause overloading to the building and affect adversely the means of escape in case of fire. If the building works associated with subdivided flat units belong to exempted building works and do not contravene any regulations, they are not UBWs.³ From the building safety angles, works involved in subdivided flat units generally contravened BO in three manners – the obstruction of means of fire escape, overloading that affected structural safety of a building and serious water seepage.

Measures to strengthen control of subdivided flat units

12. In his Policy Addresses of 2010-2011 and 2011-2012, the Chief Executive has pledged to adopt a multi-pronged approach (covering four major areas: legislation, enforcement, support and assistance to owners and publicity and public education) to enhance building safety in Hong Kong and tackle UBWs, including the problem of subdivided flat units.

13. According to the Administration, a major obstacle in undertaking inspection of suspected subdivided flat units is the difficulty for officers of Buildings Department ("BD") to gain access to inspect the interiors of the flat. To overcome such obstacle, the Administration has introduced the Buildings Legislation (Amendment) Bill 2011 into LegCo in December 2011 to bring in new measures to enhance building safety, including a proposal to empower BD officers to apply to the court for a warrant to enter a flat for inspection. A Bills Committee has been formed to scrutinize the Bill. The Administration also plans to further include various types of works involved in subdivided flat units under MWCS, such as erection or alteration of partition walls in buildings, addition or alteration of floor screeding in buildings, formation of openings to fire

³ Same as 2.

escape route, etc. The Administration will introduce amendments to B(MW)R to implement the proposal in the first quarter of 2012.

14. At the enforcement front, according to the Administration, BD has commenced a large scale operation against subdivided flat units since 1 April 2011 and set a target to inspect 150 buildings with subdivided flat units in 2011-2012. Following the fatal fire at Fa Yuen Street occurred in November 2011, BD has adjusted the strategy of its enforcement action by taking into account the fire risk that may be brought about by hawker stalls when selecting the target buildings. Buildings in the vicinity of hawker stalls and of the same type as those in Fa Yuen Streets (i.e. double staircase building of 6 to 12 storeys in height) will be selected for priority inspection. BD estimates that there are some 334 such buildings in the territory and will endeavour to complete the inspection in six months. The focus of inspection will be on whether there is blockage of means of escape as a result of subdivided flat units or other alterations. During the course of inspection, BD will immediately issue removal orders if there is sufficient evidence.

Discussions by Panel on Development and Subcommittee on Building Safety and Related Issues

15. Issues relating to subdivided flat units are among the major subjects deliberated by the Panel on Development ("the Panel") and the Subcommittee on Building Safety and Related Issues ("the Subcommittee") in the past two sessions. The Panel has discussed with the Administration on control of UBWs under BO including the problems relating to subdivided flat units at the meeting on 20 June 2011. The Subcommittee also raised concerns about the problems of subdivided flat units at meetings on 13 January, 11 May, 26 August and 8 December 2011. The major views and concerns expressed at these meetings are summarized in ensuing paragraphs.

Approach in tackling the problem of sub-divided units

16. Panel/Subcommittee members expressed grave concern about the aggravating problem of subdivided flat units in recent years. They urged the Administration to accord high priority to tackle the problems arising from subdivided flat units.

17. Noting that most subdivided flat units were located in convenient locations in urban areas, and such mode of accommodation was welcomed by the grass-roots, members considered that there was genuine demand for

subdivided flat units, and such type of accommodation should be "regulated" rather than "eliminated".

18. Given the complexity of the problems associated with subdivided flat units, some members suggested that Administration should adopt an innovative approach to tackle the problem. In addition to taking enforcement actions, the Administration should enhance awareness of owners/residents on fire safety issues relating to such flats and seek their co-operation in tackling the problem. The Administration should also tighten control on associated buildings works and improve co-ordination among relevant departments in providing assistance and support to owners, especially those in buildings with no owners' corporations, no management and no maintenance. There was a suggestion to set up a high-level cross bureaux and departments task force to take up the matter for formulation of a comprehensive policy and concrete action plans.

Fire hazards posed by subdivided flat units

19. In the wake of the fatal fire at Fa Yuen Street, some members called on the Administration to focus on the fire safety aspects of buildings in its inspection to double-staircase buildings, such as likely obstruction in the fire escape routes in the buildings as a result of subdivided flat units or other alterations. They also stressed the need for the Administration to take immediate enforcement action against UBWs causing the blockage in the buildings.

Mechanism for handling complaints

20. Some members expressed concern about the failure of the Administration in taking timely enforcement actions upon receipt of complaints about subdivided flat units lodged by owners' corporations or owners/residents. They suggested that the Administration should improve the complaint handling mechanism about subdivided flat units and draw up new guidelines to facilitate enforcement actions against the problem.

Manpower and resources for BD

21. Members emphasized the need for the Administration to step up its efforts in tackling the problem of subdivided flat units. They were disappointed at BD's target to inspect 150 buildings with subdivided flats units in 2011-2012, and considered that the Department should strengthen its manpower support and resources to cope with increasing workload

arising from control of subdivided flat units and other building safety-related matters.

Re-housing arrangement for residents of subdivided flat units

22. As subdivided flats units were homes to many low-income families, members urged that the Administration should make appropriate re-housing arrangements for affected residents before taking enforcement against such units.

Discussions at Council meetings

23. During the last year, Members have raised a number of questions relating to the problem of subdivided flat units at the Council meetings of 1 June, 22 June, 13 July and 7 December 2011. Major issues covered by these questions include: statistics on subdivided flat units in the territory, strategies and measures for control of subdivided flat units, inspections and enforcement actions to combat the problem of subdivided flat units, fire safety issues relating to subdivided flat units, and housing needs of existing tenants in subdivided flat units. Hyperlinks on details of these questions are shown at **Appendix III**.

Latest development

24. To enhance control of subdivided flat units, the Administration has proposed to further include various types of works involved in subdivided flats units under MWCS. The Administration will introduce amendments to B(MW)R to implement the proposal, and will brief the Panel on the details in the meeting to be held on 28 February 2012.

Relevant papers

25. A list of relevant papers is at **Appendix III**.

Appendix I

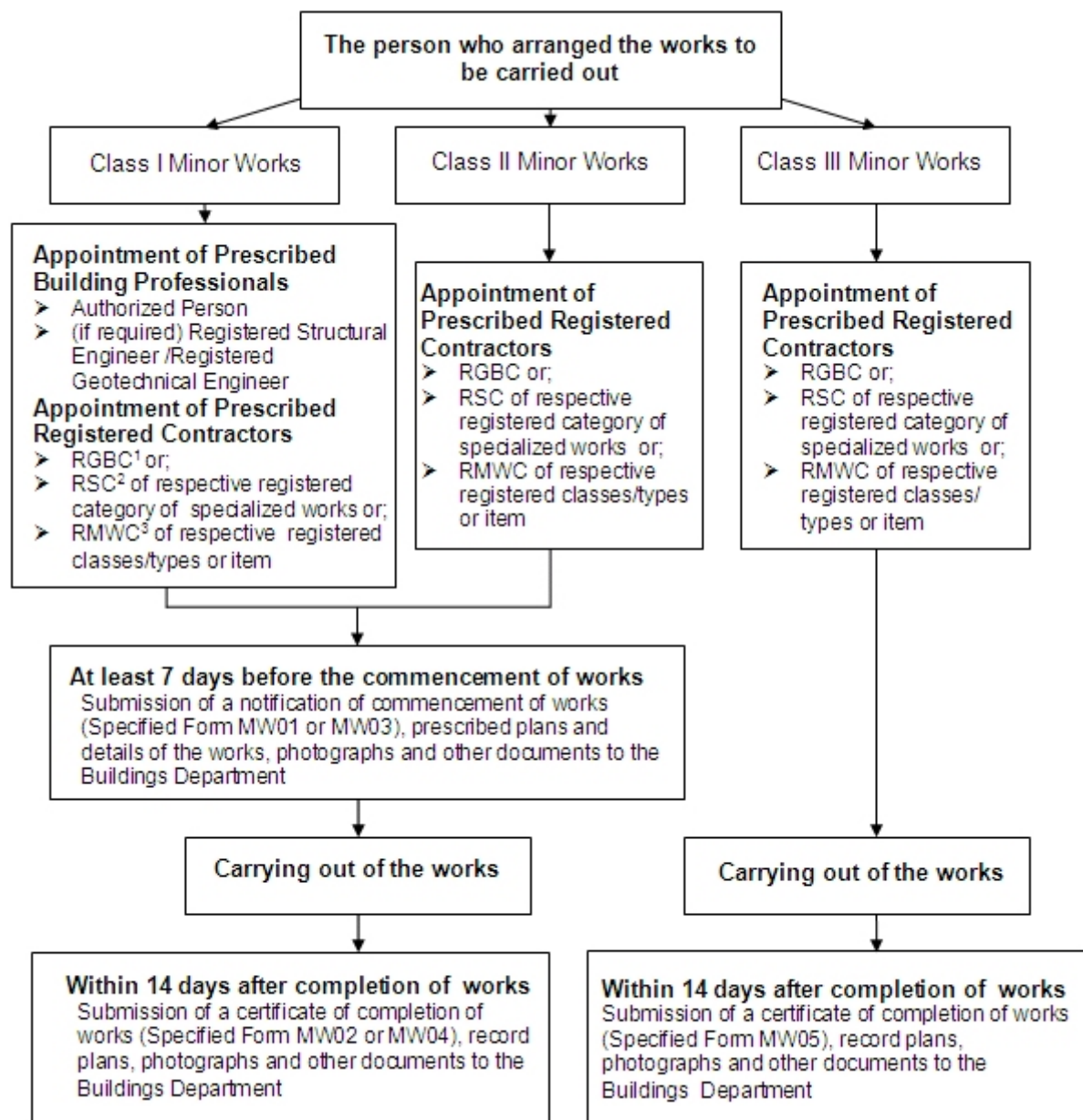
Details of Minor Works

| Minor Works | | Items | | | |
|---|-------------------------------|------------------------|------------------------|--|---|
| | | Class I | Class II | Class III | Designated Exempted Works (Part 2 of Schedule 2) |
| Erection / alteration / removal / strengthening of supporting structures for air-conditioners/water cooling towers / associated air ducts | | 1.5, 1.28, 1.29 | 2.2, 2.31 | 3.2, 3.26, 3.27, 3.28, 3.34, 3.35 | 12, 13 |
| Removal of Architectural Projection | | | 2.31 | 3.26 | |
| Erection/alteration/removal/strengthening of canopies | | 1.27 | 2.31 | 3.25, 3.26, 3.37, 3.38 | 14 |
| Removal of Chimney | | 1.37 | 2.37 | | |
| Erection / repair / alteration / addition / removal of drains | Aboveground | | 2.30 | 3.23, 3.24 | |
| | Underground | 1.25, 1.26, 1.36 | 2.28, 2.29, 2.36 | | |
| Erection/alteration/removal/strengthening of drying racks | | | | 3.29, 3.30, 3.36 | 15 |
| Construction/alteration of spread footings associated with the carrying out of minor works / designated exempted works | | 1.11 | 2.10 | | |
| Excavation works associated with the carrying out of minor works/designated exempted works | | 1.12 | 2.11 | | 9 |
| Erection / alteration / removal of solid fence walls and external mesh fences | Solid Fence Wall | 1.7, 1.9 | 2.6 | 3.4 | 5 |
| | External Mesh Fence | 1.8, 1.10 | 2.7 | 3.5 | 6 |
| Building works associated with the erection / alteration / removal of service lifts / stairlifts / lifting platforms | Service Lift | 1.3, 1.33 | | | |
| | Stairlift or Lifting Platform | 1.4, 1.34 | | | |
| Erection/alteration/repair/removal of metal gates at fence walls or at the entrance of buildings | | 1.16, 1.40 | 2.16, 2.40 | 3.13, 3.33 | 8 |
| Erection/repair/removal of panels fixed by metal dowels and fixings (onto a wall inside a building) | | 1.31 | 2.33 | | |
| Alteration/removal/repair/replacement of protective barriers | | 1.6 | 2.5 | 3.3 | |

| | | | | | |
|---|---|------------------------|---------------------------------|---------------|--------|
| Erection / alteration / removal / replacement of signboards | projecting signboard | 1.20, 1.24 | 2.18, 2.23, 2.24 | 3.16, 3.18 | |
| | wall signboard | 1.22, 1.24 | 2.19, 2.23, 2.26 | 3.17, 3.20 | 10, 11 |
| | signboard on the roof of a building | 1.21, 1.24 | 2.23, 2.25 | 3.19 | |
| | signboard on or hung underneath the soffit of a balcony or canopy | 1.24 | 2.20, 2.23, 2.27 | 3.21 | |
| | outdoor signboard fixed on-grade | 1.23, 1.24 | 2.21, 2.22, 2.23, 2.25 | 3.22 | |
| Formation/reinstatement of slab openings | formation | 1.2 | 2.1 | | 1 |
| | reinstatement | 1.35 | 2.35 | | 2 |
| Erection / alteration/removal of supporting structures for solar water heating systems / photovoltaic systems / antennas / transceivers / radio base stations | Solar Water Heating System | 1.5, 1.18 | 2.2 | 3.2, 3.14 | 12 |
| | Photovoltaic System | 1.5, 1.19 | 2.2 | 3.2, 3.15 | 12 |
| | Antenna / Transceiver | 1.13 | | 3.9, 3.10 | |
| | Radio Base Station | 1.14 | 2.12 | 3.8 | |
| Erection/alteration/removal of internal staircases | 1.1, 1.32 | | 3.1 | | |
| Repair of Structural Elements | 1.17 | 2.17 | | | |
| Removal of Unauthorized Structure | 1.30, 1.38, 1.39 | 2.32, 2.38, 2.39 | 3.32 | | |
| Replacement / removal of glass reinforced polyester water tanks | | 2.3, 2.4 | | 3, 4 | |
| Construction / alteration / repair / removal of windows / window walls | | 2.8, 2.9 | 3.6, 3.7 | | |
| Erection / alteration / removal / repair of non-load bearing external reinforced concrete walls / external block walls | 1.15 | 2.13, 2.14, 2.15 | 3.11, 3.12 | | |
| Laying / repair / removal of external rendering / external wall tiles / roof tiles | | 2.34 | | 7 | |
| Erection / repair / removal of claddings fixed to external walls | | | 3.31 | | |

Source: Extract from Buildings Department's website at http://www.bd.gov.hk/english/services/index_buildingAmendent.html

Flow chart for carry out minor work



Notes:

1 - RGBC denotes Registered General Building Contractors

2 - RSC denotes Registered Specialist Contractors

3 - RMWC denotes Registered Minor Works Contractors

Source: Extract from Buildings Department's website at http://www.bd.gov.hk/english/services/index_buildingAmendment.html

**Minor Works Control System
List of relevant papers**

| Date | Meeting/Event | References |
|---------------|---|--|
| 2 May 2003 | House Committee (<i>Formation of a Bills Committee to study the Buildings (Amendment) Bill 2003</i>) | Legislative Council Brief (File Ref.: HPLB(B)30/30/102) http://www.legco.gov.hk/yr02-03/english/bills/brief/b47_brf.pdf The Bill http://www.legco.gov.hk/yr02-03/english/bills/c020-e.pdf Legal Service Division Report (LC Paper No. LS103/02-03) http://www.legco.gov.hk/yr02-03/english/hc/papers/hc0502ls-103.pdf |
| 23 June 2004 | House Committee | Bills Committee Report (LC Paper No. CB(1)2088/03-04) http://www.legco.gov.hk/yr02-03/english/bc/bc09/reports/bc09cb1-2088-e.pdf |
| 27 March 2007 | Panel on Planning, Lands and Works | Administration's paper on Buildings (Amendment) Bill 2007 – Minor Works Control System (LC Paper No. CB(1)1184/06-07(05)) http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0327cb1-1184-5-e.pdf Background brief (LC Paper No. CB(1)1184/06-07(06)) http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0327cb1-1184-6-e.pdf Minutes of meeting (LC Paper No. CB(1)1641/06-07) http://www.legco.gov.hk/yr06-07/english/panels/plw/minutes/pl070327.pdf |

| Date | Meeting/Event | References |
|-----------------|---|---|
| | | Follow-up paper (CB(1)1891/06-07(01)) http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0327cb1-1891-1-e.pdf |
| 7 December 2007 | House Committee <i>(Formation of a Bills Committee to study the Buildings (Amendment) Bill 2007)</i> | Legislative Council Brief (File Ref.: DEVB(PL-B) 30/30/120) http://www.legco.gov.hk/yr07-08/english/bills/brief/b14_brf.pdf The Bill http://www.legco.gov.hk/yr07-08/english/bills/b0711231.pdf Legal Service Division Report (LC Paper No. LS17/07-08) http://www.legco.gov.hk/yr07-08/english/hc/papers/hc1207ls-17-e.pdf |
| 6 June 2008. | House Committee | Bills Committee Report (LC Paper No. CB(1)1868/07-08) http://www.legco.gov.hk/yr07-08/english/bc/bc01/reports/bc010618cb1-1868-e.pdf |
| 18 June 2008 | Passage of the Buildings (Amendment) Bill 2007 at the Council meeting | Hansard (pages 223 to 239) http://www.legco.gov.hk/yr07-08/chinese/counmtg/floor/cm0618-confirm-ec.pdf |
| 24 October 2008 | House Committee <i>(Consideration of the Buildings (Amendment) Ordinance 2008 (Commencement) Notice 2008 (L.N. 225))</i> | Legal Service Division Report (LC Paper No. LS6/08-09) http://www.legco.gov.hk/yr08-09/english/hc/papers/hc1024ls-6-e.pdf Minutes of meeting (LC Paper No. CB(2)197/08-09) http://www.legco.gov.hk/yr08-09/english/hc/minutes/hc20081024.pdf |

| Date | Meeting/Event | References |
|------------------|--|---|
| 24 February 2009 | Panel on Development | <p>Administration's paper on Building (Minor Works) Regulation (LC Paper No. CB(1)816/08-09(07)) http://www.legco.gov.hk/yr08-09/english/panels/dev/papers/dev0224cb1-816-7-e.pdf</p> <p>Paper on Minor Works Control System prepared by the Legislative Council Secretariat (Background brief) (LC Paper No. CB(1)861/08-09(01)) http://www.legco.gov.hk/yr08-09/english/panels/dev/papers/dev0224cb1-861-1-e.pdf</p> <p>Minutes of meeting http://www.legco.gov.hk/yr08-09/english/panels/dev/minutes/dev20090224.pdf</p> |
| 19 November 2010 | House Committee | <p>Report of the Subcommittee of Three Commencement Notices made under the Buildings (Amendment) Ordinance 2008, Building (Minor Works) Regulation and Building (Administration) (Amendment) Regulation 2009 (LC Paper No. CB(1)472/10-11) http://www.legco.gov.hk/yr10-11/english/hc/papers/hc1119cb1-472-e.pdf</p> |
| 1 December 2010 | Council meeting | <p>Council question raised by Hon Mrs Regina IP LAU Suk-ye on subdivision of flat units http://www.info.gov.hk/gia/general/201012/01/P201012010246.htm</p> |
| 13 January 2011 | Subcommittee on Building Safety and Related Issues | <p>Administration's paper on Building Safety in Hong Kong (LC Paper No. CB(1)681/10-11(01)) http://www.legco.gov.hk/yr10-11/english/panels/dev/dev_bs/papers/dev_bs0113cb1-681-1-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)1949/10-11) http://www.legco.gov.hk/yr10-11/english/panels/dev/dev_bs/minutes/bs20110113.pdf</p> |

| Date | Meeting/Event | References |
|--------------|--|---|
| 11 May 2011 | Subcommittee on Building Safety and Related Issues | <p>Administration's paper on reorganization of Buildings Department for implementation of package of measures to enhance building safety (LC Paper No. CB(1)2087/10-11(01)) http://www.legco.gov.hk/yr10-11/english/panels/dev/dev_bs/papers/dev_bs0511cb1-2087-1-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)971/11-12) http://www.legco.gov.hk/yr10-11/english/panels/dev/dev_bs/minutes/bs20110511.pdf</p> |
| 1 June 2011 | Council meeting | <p>Council question raised by Hon WONG Kwok-kin on regulation of sub-division of flat units http://www.info.gov.hk/gia/general/201106/01/P201106010186.htm</p> |
| 20 June 2011 | Panel on Development | <p>Administration's paper on control of unauthorized building works under the Buildings Ordinance (LC Paper No. CB(1)2487/10-11(01)) http://www.legco.gov.hk/yr10-11/english/panels/dev/papers/dev0620cb1-2487-1-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)775/11-12) http://www.legco.gov.hk/yr10-11/english/panels/dev/minutes/dev20110620.pdf</p> |
| 22 June 2011 | Council meeting | <p>Council question raised by Dr Hon Priscilla LEUNG Mei-fun on subdivision of flat units http://www.info.gov.hk/gia/general/201106/22/P201106220341.htm</p> <p>Council question raised by Hon Starry LEE Wai-king on fire safety of buildings with sub-divided units http://www.info.gov.hk/gia/general/201106/22/P201106220317.htm</p> |

| Date | Meeting/Event | References |
|-----------------|--|---|
| 13 July 2011 | Council meeting | Council question raised by Prof Hon Patrick LAU Sau-shing on fire safety problem of subdivided units http://www.info.gov.hk/gia/general/201107/13/P201107130222.htm |
| 26 August 2011 | Subcommittee on Building Safety and Related Issues | Paper on building safety (Background brief) (LC Paper No. CB(1)2930/10-11(04)) http://www.legco.gov.hk/yr10-11/english/panels/dev/dev_bs/papers/dev_bs0826cb1-2930-4-e.pdf |
| 7 December 2011 | Council meeting | Council question raised by WONG Yuk-man on sub-divided units http://www.info.gov.hk/gia/general/201112/07/P201112070317.htm |

Other useful links --

| | |
|----------------------|---|
| Buildings Department | Minor Works Control System http://www.bd.gov.hk/english/services/index_buildingAmendment.html |
| Buildings Department | Frequently Asked Questions -- Sub-division of flat units (Sub-divided units) http://www.bd.gov.hk/english/services/index_faqJ.html |