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Panel on Housing

Meeting on 6 July 2015

Background brief on enforcement actions against subdivided units in industrial buildings and the rehousing arrangements for affected tenants prepared by the Legislative Council Secretariat

Purpose

1. This paper provides background information on enforcement actions against subdivided units ("SDUs") in industrial buildings ("IBs") and the rehousing arrangements, and gives a summary of the major views and concerns expressed by Members when related issues were discussed by the Subcommittee on Long Term Housing Strategy ("the Subcommittee")¹ and in the Council in the 2012-2013 to 2014-2015 legislative sessions.

Background

Enforcement against illegal domestic units in IBs

2. IBs are subject to design and planning requirements different from those applicable to domestic and composite buildings on various aspects such as plot ratio, site coverage, provision of lighting and ventilation, fire safety requirements. Tenants of units in an IB converted for domestic use illegally are exposed to high fire and safety risks posed by the other units within the same IB which may still be used for industrial activities or storage of dangerous and inflammable goods.

¹ Following the Government's launching of the Long Term Housing Strategy ("LTHS") review in September 2012, the Panel on Housing appointed the Subcommittee at its meeting on 3 December 2012 to discuss various issues covered in the LTHS review and make recommendations on LTHS.

3. The Buildings Department ("BD") carries out inspection and enforcement actions in relation to SDUs in IBs. The Buildings Legislation (Amendment) Ordinance 2012 enacted in July 2012 enabled BD to apply for court warrants for gaining entry into individual premises to carry out inspection of and enforcement actions against any unauthorized building works identified therein. The Building (Minor Works) (Amendment) Regulation 2012, which came into effect from 3 October 2012, had included building works associated with SDUs under the Minor Works Control System so that such works would be required to be carried out by qualified professionals and in compliance with the Buildings Ordinance (Cap. 123) and other regulations.

4. As in the case of handling other unauthorized building works, upon issue of removal orders in respect of SDUs in IBs, BD will take action to ensure compliance by the owners. Where the owners have not complied with the orders after a specified period, BD will issue reminders and, if necessary, warning letters to the owners to urge them to comply with the orders before considering whether to instigate prosecution. Prosecution may be instigated if the owners fail to comply with the orders without reasonable excuse. Moreover, BD will consider engaging government contractors to carry out the required works in the face of the owners' default and will subsequently recover the cost of such works.

5. When taking enforcement actions to eradicate SDUs in IBs, BD will first apply to the District Court for a Closure Order to ensure smooth conduct of removal works and safety of the SDU residents prior to its eradication operation. BD will issue a Notice of Intention to Apply for a Closure Order and post it at the venue before the application for the Order so as to allow a reasonable period of time for the tenants to move to self-arranged residences or the Transit Centres² arranged by the Housing Department ("HD").

Assistance provided for tenants affected by BD's enforcement actions

6. According to the Administration, it is the government policy that no one should be rendered homeless as a result of law enforcement actions (including those taken against SDUs in IBs). If tenants lose their homes due to enforcement actions, they can be admitted to Transit Centres through referrals by relevant government departments, while they wait for eligibility vetting for further rehousing or look for alternative accommodation themselves. If these tenants have stayed in a Transit Centre for three months and passed the "homeless test", subject to fulfillment of eligibility criteria for public rental

² There are two Transit Centres under the Hong Kong Housing Authority ("HA"), namely, the Po Tin Transit Centre in Tuen Mun and Lung Tin Transit Centre in Tai O, providing a total of more than 400 bed-spaces at present.

housing ("PRH"), HD will arrange for their admission to Interim Housing³ and application for PRH flats.

7. If BD's enforcement action involves relocation of tenants, it will closely liaise with the Social Welfare Department, Home Affairs Department and HD to provide assistance to the affected tenants. The social services teams of BD will also provide necessary social and emotional support to these tenants. BD has also been implementing an assistance programme endorsed by the Steering Committee on Community Care Fund since December 2011 to allocate one-off relocation subsidy to tenants who have to move out of illegal domestic units (including SDUs) in IBs due to BD's enforcement actions. As at end of April 2015, BD has approved 141 applications with 205 beneficiaries.

Major views and concerns expressed by Members

8. Issues relating to enforcement and legislation against SDUs in IBs were brought up when the Subcommittee discussed the findings of the survey on SDUs at its meetings on 30 May and 26 June 2013, and during the briefing on the government measures to facilitate the redevelopment and wholesale conversion of older IBs at the Subcommittee meeting on 16 July 2013.

9. At the Council meetings of 12 December 2012 and 10 June 2015, Dr Hon Joseph LEE and Hon CHAN Han-pan raised questions relating to revitalization of IBs and assistance provided for occupants of SDUs in IBs respectively. The major views and concerns raised by Members at the meetings of the Subcommittee and in the Council are summarized in the ensuing paragraphs.

Enforcement actions against SDUs in IBs

10. Some Members criticized the Administration for not taking proactive enforcement actions against SDUs in IBs, which in turn had resulted in the increase of SDUs in Hong Kong. They urged the Administration to formulate a holistic package of measures with timeframes to tackle the problem of SDUs in general, tighten enforcement actions as well as reinforce public awareness of the fact that using an industrial unit for domestic purpose would pose a high risk to the tenants. Members also considered that the relevant authorities should gauge the number of SDUs in IBs to facilitate enforcement.

³ There are three Interim Housings under HA, namely Shek Lei Interim Housing, Po Tin Interim Housing and Long Bin Interim Housing, providing a total of about 5 000 Interim Housing units.

11. The Administration stressed that it had been adopting a multi-pronged approach covering four areas, namely legislation, enforcement, support and assistance to building owners, and publicity and public education, to enhance building safety in Hong Kong. Since April 2011, BD had launched a large-scale operation to inspect 150 target buildings per year to identify and rectify irregularities of building works associated with SDUs. The large-scale operation had been enhanced in April 2012 by increasing the target to 200 buildings per year, including 30 IBs. Appropriate enforcement actions against the irregularities identified, such as issuance of removal orders or Fire Hazard Abatement Notices, as well as instigating prosecutions against offenders, would be taken in accordance with the relevant legislation.

12. As regards the statistics on the total number of IB units converted for domestic use in the territory, the Administration advised that BD did not have the figures. To conduct such survey, BD would need to enter the units of around 1 900 IBs in Hong Kong for inspection, which would involve practical difficulties and substantial manpower and resources. Furthermore, the situation observed might change from time to time.

Rehousing arrangements for displaced tenants

13. Members expressed dissatisfaction that BD had not taken into account the difficulties faced by individual displaced tenants, and had failed to provide them with adequate financial support and housing assistance when taking enforcement actions against SDUs. Some members considered the eligibility and assessment criteria for the relocation allowance funded by the Community Care Fund overly stringent, rendering some displaced tenants homeless after moving out of the SDUs. There was also a suggestion that the Administration should consider offering rental subsidies to SDU tenants awaiting PRH allocation, or relaxing the income and asset limits for PRH so that more SDU tenants would be eligible for PRH.

14. The recent case of BD's execution of closure orders and carrying out of demolition works against SDUs in Wing Fung Industrial Building in Tsuen Wan on 29 April 2015, in which over 20 affected tenants and representatives of support groups petitioned at BD's Mongkok office to request the authorities to "rehouse before clearance" had drawn wide public concern. Some Members suggested the Administration consider using Interim Housing units (and not just those of Transit Centres) as temporary accommodation for the affected tenants.

15. The Administration explained that if tenants of SDUs in IBs lost their homes due to enforcement actions, they could be admitted to Transit Centre through referrals by relevant government departments, or to Interim Housing subject to the displaced tenants meeting the relevant criteria. HA would also

assist the tenants to apply for PRH in accordance with the prevailing PRH allocation policy. The Administration pointed out that PRH and Interim Housing were both valuable housing resources of the community involving heavy public subsidy. The Government had to handle the rehousing cases of tenants of SDUs in IBs in a fair and appropriate manner lest it would result in unfair treatment to PRH applicants who were waiting for flat allocation. Allowing tenants of SDUs in IBs to be admitted to Interim Housing directly without passing the eligibility vetting conducted by HD would also convey a wrong message to the community that living in SDUs in IBs was a shortcut for admission to Interim Housing and even PRH.

Rezoning of suitable sites and conversion of IBs to provide transitional accommodation

16. Some Members proposed that the Administration should rezone suitable sites or release idle land lots (e.g. vacant school premises), which had been reserved for a long time but had no specific development plans yet, for providing transitional accommodation to rehouse displaced tenants of SDUs.

17. The Administration advised that when there was vacant government land which had not been designated for a specific use or was not required for development in the near future, the Administration might put the land to temporary uses by granting short-term tenancies. However, such government sites might be used for other purposes shortly after the short-term tenancies expired. As land was scarce and limited in Hong Kong, if suitable housing sites were identified, it would be more cost-effective to earmark the sites for permanent public housing development instead of transitional accommodation.

18. Members recalled that the Government had indicated in 2012 that it was exploring ways, under the policy on revitalization of IBs, to facilitate the owners of suitable IBs to undertake conversion of such buildings to transitional accommodation compliant with relevant requirements for use on an interim basis as a stop-gap measure to increase housing supply, and enquired about the progress of work in this regard. The Administration advised that it had examined the relevant regulatory regimes, including the Building Ordinance (Cap. 123), Town Planning Ordinance (Cap. 131) and land leases, etc., and had approached IB owners to understand the actual situation. IBs generally did not meet the design and planning requirements for domestic use (e.g. the regulations on natural lighting and ventilation). If an IB was to comply with the building standards and requirements so drawn up, the conversion works for "transitional accommodation" use would involve substantial alterations or demolition of parts of the building. Some IB owners had indicated that the relevant works would be very costly, rendering the conversion infeasible.

19. The Administration further pointed out that as most IBs were situated in areas with active industrial operations, converting them for temporary domestic use might not be compatible with the existing land uses in the vicinity. Besides, the current regulatory regimes could not effectively control the uses in the existing IBs in the vicinity so as not to cause adverse impact on or danger to the domestic use. Having taken into full consideration of the need to protect the well-being of residents and the need of the whole community, the Administration considered that allowing wholesale conversion of IBs for temporary domestic use was not practicable.

20. Members were generally disappointed that the option of providing transitional accommodation at IBs was considered not practicable by the Administration. Some Members took the view that the existing living environment of most SDUs and bedspace apartments were even more undesirable and dangerous than that in converted IBs. On the other hand, a few Members expressed support for the various considerations of the Administration in not pursuing the option of allowing wholesale conversion of IBs for transitional accommodation use, as they considered it more appropriate to focus efforts on increasing land supply to address the problem of housing shortage.

Recent developments

21. On 5 May 2015, Dr Hon Fernando CHEUNG Chiu-hung wrote a letter to the Panel Chairman expressing concerns about the Administration's rehousing policy for tenants affected by enforcement actions to eradicate SDUs in IBs, and proposing early discussion of the matter. The letter is hyperlinked in the **Appendix**.

22. The Administration will brief members on the enforcement actions against SDUs in IBs and the rehousing arrangements and the suggestion on provision of transitional housing at the Panel meeting on 6 July 2015.

Relevant papers

23. A list of relevant papers is set out in the **Appendix**.

**Enforcement actions against subdivided units in industrial buildings and
the rehousing arrangements for affected tenants**

List of relevant papers

Council/ Committee	Date of meeting	Paper
Subcommittee on the Long Term Housing Strategy	30 May and 26 June 2013	<p>Administration's paper on "Issues relating to the subdivision of flat units" (LC Paper No. CB(1)1117/12-13(03))</p> <p>Information note on "Subdivided flats in Hong Kong" prepared by the Research Office of the Legislative Council Secretariat (LC Paper No. IN22/12-13)</p> <p>Administration's response to issues arising from the meeting on 30 May 2013 (LC Paper No. CB(1)1371/12-13(03))</p> <p>Administration's response to items (a) and (c) of the list of follow-up actions for the meeting on 26 June 2013 (LC Paper No. CB(1)1729/12-13(02))</p> <p>Minutes of meeting on 30 May 2013 (LC Paper No. CB(1)143/13-14)</p> <p>Minutes of meeting on 26 June 2013 (LC Paper No. CB(1)618/13-14)</p>
Subcommittee on the Long Term Housing Strategy	16 July 2013	<p>Administration's paper on "Revitalization of industrial buildings" (LC Paper No. CB(1)1529/12-13(01))</p> <p>Minutes of meeting (LC Paper No. CB(1)191/13-14)</p>
Panel on Housing	7 July 2014	Report of the Subcommittee on the Long Term Housing Strategy (LC Paper No. CB(1)1705/13-14)

Council/ Committee	Date of meeting	Paper
Panel on Housing	--	Letter dated 5 May 2015 from Dr Hon Fernando CHEUNG Chiu-hung regarding the rehousing policy for tenants affected by enforcement actions to eradicate subdivided units in industrial buildings (Chinese version only) (LC Paper No. CB(1)834/14-15(01))

Hyperlinks to relevant Council Questions:

Date	Council Question
12 December 2012	Council question (oral) raised by Dr Hon Joseph LEE http://www.info.gov.hk/gia/general/201212/12/P201212120360_print.htm
10 June 2015	Council question (written) raised by Hon CHAN Han-pan http://www.info.gov.hk/gia/general/201506/10/P201506100305.htm