

LegCo Panel on Housing
Special Meetings on 7, 9 and 14 December 1999
on
Building Quality of Public Housing Flats

Role and responsibilities of Buildings Department
in monitoring building quality of private buildings
and
Exemption of Housing Department buildings from compliance
with the provisions of the Buildings Ordinance

Introduction

This paper sets out the role and responsibilities of Buildings Department (BD) in monitoring building quality, and the provisions for exemption of Housing Department buildings from application of the Buildings Ordinance (BO) and acceptance procedures of the BD.

Statutory duties of Authorized Person (AP), Registered Structural Engineer (RSE), Registered General Building Contractor (RGBC) and Registered Specialist Contractor (RSC)

2. The BO requires that a person intending to carry out building works shall appoint an AP and a RSE to design and supervise building/structural works, and a RGBC or RSC to carry out these works. Under section 4(3), 9(5) and 9(6) of the BO, they have the following statutory duties:

- (a) the AP and RSE appointed shall supervise the carrying out of the building works, notify the BD of any contravention of the building regulations, and ensure that building works conform to approved plans. In connection with their statutory duty of supervision, they shall give such periodical supervision and make such inspections as may be necessary to ensure that the building and structural works are carried out in general compliance with the provisions of the BO;

- (b) the RGBC/RSC appointed to carry out building works or specialized works shall provide continuous supervision to ensure that the building works or specialized works are carried out in accordance with the BO and regulations as well as the approved plans and any conditions imposed.

Role and responsibilities of BD

3. BD enforces the safety and health standards for private buildings provided in building regulations by administering a system of approval, consent and permits for occupation of buildings provided for in the BO. (BD issues and regularly updates codes of practice and practice notes to guide AP/RSE/RGBC/RSC as to how to comply with all the relevant requirements under the BO.)

Approval

4. Plans for building works shall be prepared by AP or RSE (for structural works) and submitted to the BD for prior approval. These plans are prescribed under the BO and include demolition plan, site formation plan, excavation and lateral support plan, foundation plan, building plan, structural plan and drainage plan.

5. BD gives approval to building works upon being satisfied that standards of structural stability, safety and health prescribed under the BO and regulations are met.

Consent

6. After obtaining approval of plans for building works, the AP shall apply for consent to commencement of building works. BD may give consent to such commencement, subject to the satisfactory provision of precautionary measure to ensure the safety of buildings nearby the construction sites. The BD may also impose conditions for the use and tests of materials, standards of workmanship, supervision of works by qualified personnel etc.

Monitoring

7. Staff of BD carry out sample tests of structural elements. Such sample tests include proof tests of piles and strength tests on concrete on a random basis. In addition, BD also requires the submission of concrete cube compression test reports and steel reinforcement test reports by independent testing laboratories to confirm that the concrete and steel used meet acceptable standards laid down under the Building Regulations.

Occupation Permit

8. Upon completion of building works, the RGBC/RSC have to certify that the building works have been carried out in accordance with the provisions of the BO. In addition, the AP and RSE have to certify that the building works have been carried out in accordance with the approved plans and that they are structurally safe.

9. Before issuance of occupation permits, BD will consider the results of the sample tests on structural and fire resisting elements by the AP and RSE, and the result of BD's own general site inspections conducted upon receipt of applications for an occupation permit.

Sanctions and penalties under the BO

10. Under section 16 of the BO, BD has the power to refuse to give approval to any plans or his consent to the commencement of building works or street works. Under section 21(6) of the BO, BD also has the power to refuse to issue an occupation permit for the building if all requirements of the BO have not been met.

11. Under section 40(2A) of the BO, any person directly concerned with the building works including the AP, RSE, RGBC and RSC shall be liable on conviction to a fine of \$250,000 and to imprisonment for 3 years if he :

- (a) permits or authorizes the use of any materials which --
 - (i) are defective or do not comply with the BO;

- (ii) have not been applied, used or constructed in the manner required under the BO;
- (b) deviates in a material way from approved plans; or
- (c) knowingly misrepresents a material fact in any plans or certificates submitted to BD.

12. They are also liable on conviction to the same penalty under section 40(2B) of the BO if they carried out works in such manner that it causes injury or a risk of injury to any person or damage to any property.

13. Apart from prosecution action, BD may institute disciplinary proceedings against the AP and RSE under section 7 of the BO, who has been convicted by court of an offence related to carrying out his professional duties, has been negligent or has misconducted himself in a professional way. Similar disciplinary action can be taken against a RGBC/RSC who has been convicted by court of an offence relating to building works, has been negligent or misconducted himself under section 13 of the BO. The disciplinary board has the power to order their removal from the respective register either permanently or for a certain period. He may also be fined to a maximum of \$250,000 or be reprimanded.

Exemption of Housing Authority Buildings from the Buildings Ordinance and the acceptance procedures of Buildings Department

14. Section 41(1)(aa) of the BO exempts any buildings over which the Housing Authority has control and management from the provisions of the Ordinance. Section 18(2)(a) of the Housing Ordinance stipulates that the BO shall not apply to buildings to be constructed or being constructed by the Housing Authority. These buildings are therefore also exempted from the acceptance procedures of BD as described in the above paragraphs. From time to time, however, HD seeks comment from BD on the interpretation and application of the BO and Building Regulations on building designs and on individual projects.

Buildings Department
26 November 1999