

HPLB/BAB Paper/01/04

**Bills Committee on
Buildings (Amendment) Bill 2003**

Warning Notice

Purpose

This paper outlines the proposal under the Buildings (Amendment) Bill 2003 on the issue of warning notices and the registration of warning notices against unauthorized building works (UBWs) in the Land Registry (LR).

Background

2. In view of the large number of UBWs in Hong Kong, the Buildings Department (BD) currently adopts a priority enforcement policy of issuing removal orders against UBWs that are in progress or newly erected, that present imminent danger to the public or cause serious environmental or health hazards. For other UBWs coming to BD's notice but not falling within such priority categories for enforcement action, BD would usually issue advisory letters to owners asking them to remove the UBWs voluntarily. However, experience shows that these advisory letters have had very limited deterrent effect.

Proposal

3. To strengthen our efforts to encourage owners to remove UBWs voluntarily, we propose to amend the Buildings Ordinance (BO) to empower the Building Authority (BA) to issue a warning notice against a UBW where a removal order is not issued, and to register the notice in the LR if the UBW is not removed within a specified period under the new section 24C (Clause 30 of the Bill).

4. Before issuing a warning notice under the new section 24C, BD will, as an administrative procedure, issue a letter to the owner notifying him of the BA's intention to issue such notice on him after a specified period, normally a period of 30 days. Unless the owner informs BD within the specified period that the UBW has been removed or removal works has commenced, BD will proceed with the issue of a warning notice by posting a copy of the notice on

the subject premises or land and sending another copy by registered mail to the owner of the premises or land.

5. As an example, BD may serve warning notices on owners of illegal rooftop structures (IRS) in non-single-staircase buildings¹. The new section 24C(2) and (3) provide that a notice shall be served on the owner of the land or premises on which the building has been erected or on which the building works have been or are being carried out. However, where the building or building works is or are -

- (a) connected to land or premises (referred to as “other land or premises”) other than the land or premises on which the building has been erected or on which the building works have been or are being carried out; and
- (b) occupied or used by the owner or occupier of that “other land or premises”,

a notice shall be served on the owner of that “other land or premises”. For example, if the roof on which the IRS mentioned above is erected is the common area of the building (i.e. the land or premises on which the building has been erected or on which the building works have been or are being carried out) but the IRS is connected to the flat immediately below (i.e. “other land or premises”), the warning notice will be issued to the owner of the flat below instead of the co-owners of the building. This manner of serving warning notices is the same as that of serving removal orders under section 24(2)(a) and (2A).

6. Under the new section 24C(1) (Clause 30), a warning notice will contain the following particulars :-

- (a) the location and description of the subject UBW and the affected premises or land;
- (b) provisions under the BO which the UBW has contravened;
- (c) other actions under the BO that the UBW may be subject to (e.g. a removal order under section 24);
- (d) a date after which the notice will be registered with the LR if the UBW is not demolished.

¹ BD would issue removal orders against illegal rooftop structures in single-staircase buildings because of concern over means of escape and fire safety.

7. If the subject UBW is not demolished within the specified period, normally 2 months, BD will proceed with the registration of the warning notice with LR in accordance with the new section 24C(4). The new section 24C(5) provides that the warning notice shall be deemed to be an instrument affecting land or premises and shall be registrable in the LR.

8. When the subject UBW has been demolished by the owner or the contraventions referred to in the warning notice have been rectified, the BA will lodge in the LR an appropriate instrument of satisfaction against the warning notice under the new section 24C(6). In such an event, the warning notice registered previously will cease to have effect.

9. The proposal will have an added advantage of providing a measure of consumer protection to prospective property buyers, who can be made aware of the existence of any UBW in the premises through a land search at the LR. Hence, property owners who are concerned about the market value of their property or are contemplating a re-sale are expected to be more willing to remove UBWs before property transactions.

Conclusion

10. We believe that the proposal of the issue of warning notices and the registration of warning notices in LR has a greater deterrent effect than advisory letters currently issued and can, therefore, encourage owners to remove UBWs voluntarily. This would complement the removal orders and prosecution actions in tackling the UBW problem.