

香港特別行政區政府

## The Government of the Hong Kong Special Administrative Region

房屋及規劃地政局

香港花園道美利大廈

Housing, Planning and Lands  
BureauMurray Building,  
Garden Road, Hong Kong

本局檔號 Our Ref. HPLB(B) 30/30/102 Pt.25

Tel. No.: 2848 6297

來函檔號 Your Ref.

Fax No.: 2899 2916

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[Fax : 2869 6794]

Clerk to Bills Committee  
(Attn : Ms Odelia Leung)  
Legislative Council Secretariat  
Legislative Council Building  
8 Jackson Road  
Central  
Hong Kong

Dear Ms Leung,

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

At the Bills Committee meeting on 12 February 2004, some Members asked the Administration to provide a list of bodies referred to in paragraph 3(e) of LC Paper No. CB(1) 719/03-04(03) for nomination of persons for selection by the Building Authority (BA) to sit on a Contractors Registration Committee (CRC).

Paragraph 3(e) of the LC Paper mentioned above refers to one person selected by the BA from among persons nominated by such bodies as the BA may think fit under section 8(3)(e) of the Buildings Ordinance (BO). At present, such bodies include -

- (a) Hong Kong Institute of Construction Managers (HKICM);
- (b) Hong Kong General Building Contractors Association Ltd. (HKGBCA);
- (c) Contractor's Authorised Signatory Association Ltd. (CASA); and
- (d) Hong Kong Registered Ventilation Contractors Association Ltd. (HKRVCA).

Some Members asked the Administration to advise whether any checking and assessment would be done before an application for renewal of registration as a Registered Contractor (RC) is approved and whether total subletting of construction projects is one of the factors taken into account by the BA in considering renewal applications, and to explain whether total subletting of private construction projects is regulated by the BA and if so, how. In addition, the Administration was asked to provide the number of applications for renewal of registration as an RC which were rejected because of poor track records of the applicants over the past three years, if any.

Renewal of registration as a RC is governed by section 8C of the BO. Applications for renewal of registration as an RC must be received by the BA not earlier than 4 months and not later than 28 days prior to the date of expiry of the relevant registration. Upon receiving a renewal application, the BA would vet the application in relation to the following aspects :

- (a) whether the RC has been active in the relevant types of building projects within the current registration period;
- (b) whether the RC or its key personnel has conviction/disciplinary records under the BO, conviction on labour safety offences under ordinances such as the Factories and Industrial Undertakings Ordinance and Occupational Safety and Health Ordinance or conviction leading to imprisonment owing to malpractice or misconduct in construction related activities; and
- (c) whether the RC has records of suspension from tendering in public projects.

If the contractor has been inactive or has any of the above conviction/disciplinary/suspension records during the current registration period, he will be referred to a CRC for interview and assessment. In the interview, the CRC will further assess the contractor's competence, having considered the nature and gravity of the relevant offence committed by the contractor.

As at 10 February 2004, there are a total of 1 250 RC, of which 595 are Registered General Building Contractors (RGBC) and 655 are Registered Specialist Contractors (RSC). The number of applications for renewal as an RC and the number of applications refused in the past three years are as follows :

	2001	2002	2003
Total number of renewal applications	20	503	420
Number of renewal applications refused	5	10	9

The number of renewal applications in 2001 was significantly lower than that of 2002 and 2003 because when the revised registration system came into operation in 1997 (for RGBC) and 1998 (for RSC), there was a transition for the then existing registered contractors to continue their practice for 2 years without registration under the revised system. Most contractors obtained their 3-year registration under the new system for the first time in 1999 and 2000 around the expiry of the transitional period of 2 years and their renewal of registration took place in 2002 and 2003.

As regards whether total subletting of private construction projects is regulated by the BA, the objective of building control under the BO is to ensure the process of construction and the completed building works are safe and in compliance with technical standards specified in the BO. The BO does not govern the contractual arrangement or ways of engaging the required personnel for a building project. Under the BO, an RC is required to be appointed for each building project. The RC so appointed is required to provide "continuous supervision" to the carrying out of building works. An RC must appoint a competent person, commonly known as "authorised signatory" (AS), to act for it for the purposes of the BO before it can be registered as an RC. If the RC is a corporation, there should also be at least one "technical director" to be responsible for management of building projects. For each project, the RC is required under the BO to submit, before commencement of works, supervision plans to the Buildings Department (BD) delineating the mode of supervision and the organization of the supervision team. The head of the supervision team should be the AS of the RC who will exercise overall site control of the project. BD carries out audit checks and site inspections to ensure that the RC has fulfilled the supervision requirements. BD also checks the building works for compliance with the BO. If an RC totally sublets a construction project to other persons, he will fail in his duty of providing continuous supervision and will contravene the provisions of the BO. In such cases, the RC may be liable to prosecution and/or disciplinary action.

Members requested the Administration to review the composition of a CRC to ensure balance of representation. Some Members are concerned that an unbalanced CRC may unjustifiably exclude qualified applicants from registration

as RCs in order to protect the interest of existing RCs.

Under the revised section 8(3) of the BO proposed under the Buildings (Amendment) Bill 2003, a CRC consists of the following 9 members :

- (a) the BA's representative;
- (b) 3 persons, 1 of whom is nominated by each of the Architects Registration Board, the Engineers Registration Board and the Surveyors Registration Board from the lists of authorized persons, registered structural engineers and registered geotechnical engineers;
- (c) 3 persons nominated by the Hong Kong Construction Association Ltd. (HKCA);
- (d) 1 person nominated by the Hong Kong E&M Contractors Association Ltd. (EMCA);
- (e) 1 person appointed from nominations from HKICM, HKGBCA, CASA or HKRVCA (Please see paragraph 2 above).

These members represent a good mix of different sectors of the building industry. Whilst members of the HKCA are mostly large-sized contractors, members of HKGBCA, CASA and HKRVCA mostly come from small to medium-sized contractors. On the other hand, members of EMCA are not RGBC while members in category (a) and (b) above and members of HKICM are building professionals but not contractors. Therefore out of the 9 members of a CRC, 4 to 5 are building professionals, 3 are the larger sized RGBC or RSC, 1 is the smaller sized RGBC or RSC and 1 is an E&M contractor. Moreover, all CRCs have all along been adopting the practice of not electing a member from contractors' associations as the Chairman of the CRC, who has the casting vote. We consider that the composition of a CRC is well balanced with sufficient representation from various sectors of the building industry, and it is highly unlikely for any member or members to dominate the decision-making process of the CRC. Furthermore, according to the observation of the BA's representative in the CRC, there has not been any sign that qualified applicants are prejudiced by the existing RCs.

At the same Bills Committee meeting, some Members have asked the Administration to devise a practical regime to deal with existing unauthorized minor building works upon enactment of the proposed provisions concerning warning notices, and to consider whether warning notices will be issued against

existing unauthorized minor building works such as supporting frames for air-conditioning units and drying racks. Some Members are concerned about the impact of registration in the Land Registry (LR) of warning notices against existing unauthorized minor building works on conveyancing. We have written to the Law Society of Hong Kong seeking their views. We expect to hear from the Law Society after its Property Committee has deliberated on the subject on 10 March 2004.

Under the current enforcement policy, BD adopts a pragmatic approach under which immediate enforcement actions would not be taken against existing unauthorized minor building works, such as supporting frames for air-conditioning units and drying racks, provided that they do not pose any imminent danger. In other words, BD normally would not issue removal orders or advisory letters against such minor building works. In future, after the implementation of the new warning notice regime, BD intends to adopt a similar approach whereby warning notices would not be served on such types of unauthorized minor building works if they were constructed prior to the implementation of the minor works control regime. However, removal orders will still be issued against such minor building works if they pose any imminent danger. Since we intend to continue adopting this pragmatic approach upon the implementation of the new warning notice regime, we believe that the registration of warning notices in the LR should not have an undue impact on conveyancing. We would report the views of the Law Society on the subject once available.

I would be grateful if you will convey the above information to the Bills Committee Members.

Yours sincerely,



(Rick Chan)

for Secretary for Housing, Planning and Lands

c.c.	DB	(Attn : Mr C K Au)	[Fax : 2840 0451]
	D of J	(Attn : Mr K F Cheng/ Ms Selina Lau)	[Fax : 2845 2215]