

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



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13 May 2004

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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**

In response to Members' questions raised at the Bills Committee meeting on 7 May 2004, we provide the relevant information below.

Section 8B – Time taken for disciplinary proceedings

Members requested the Administration to provide information on the range of time and average time taken by disciplinary boards to complete disciplinary proceedings in respect of registered contractors over the past three years.

There were no disciplinary cases in respect of registered contractors since 2000. However, there were a total of five disciplinary cases from 1997 to 1999. The time taken by the relevant disciplinary boards to complete the disciplinary proceedings of these five cases varied from 2 to 19 months with an average of 8.4 months.

Section 24 - Registration of statutory orders

Members requested the Administration to advise when an order issued under section 24(2) or (2A) will be registered with the Land Registry (LR).

Upon the service of a statutory order under section 24 of the Buildings Ordinance (BO) to an owner, the Building Authority (BA) will at the same time send a copy of the order to the LR for registration. The LR will usually take about 12 days to prepare the memorial of the order for registration. Once the memorial is ready, the LR has a performance pledge to complete its registration in 20 working days.

Proposed Section 24C – Warning Notice

Members also asked the Administration to consider the viability of providing a performance pledge on the time required by the BA to lodge in the LR an appropriate instrument of satisfaction against a notice for demolition or alteration of building or building works.

After the BA is notified of the removal of the unauthorized building works by the owner, he has to carry out inspection to confirm that the removal works have been satisfactorily completed. In this connection, the Buildings Department will provide a performance pledge to issue a reply to the owner within three weeks upon the receipt of such notification. The reply will state whether the removal works have been satisfactorily completed or not. If the BA is satisfied with the works done, he will at the same time lodge in the LR an appropriate instrument of satisfaction under the new section 24C(6).

Proposed Section 29A - Maintenance of emergency vehicular access

Members requested the Administration to advise on the drafting criteria for adopting the phrase “to the satisfaction of BA” or “in the opinion of BA” in the Bill and also to explain the difference between subsections (1) and (4).

Section 29A(1) proposed in the Bill provides that an emergency vehicular access (EVA) shall be maintained in good order to the satisfaction of the Building Authority (BA) by the owner of the EVA. If the words “to the satisfaction of the BA” are deleted as proposed, then

whether the EVA is maintained in good order would have to be viewed objectively having regard to the objectives of the provisions of section 29A. One of the main objectives is contained in subsection (2) which empowers the BA to require an owner of an EVA to carry out such works as the BA considers necessary if the BA finds that any defect in the EVA or any alteration to it has resulted or is likely to result in the EVA being no longer capable of serving the purpose for which it is designed and constructed. Since subsection (2) already sets out the circumstances under which an EVA is considered not maintained in good order and their consequences, we consider that the words "to the satisfaction of the Building Authority" in subsection (1) can be deleted. The deletion of the relevant words can also help avoid any uncertainty over the responsibility of the owners of EVA resulting from the words.

Section 29A(4) empowers the BA to carry out such works as may appear to him to be necessary if, in his opinion, an EVA has been rendered dangerous or liable to become dangerous and emergency has thereby arisen. Under these circumstances, the BA has to deal with an emergency situation where he will cause emergency works to be carried out to protect the safety of the public, without the service of a statutory order first. One example of such circumstances is an extensive or sudden depression of an EVA that may render fire appliances unable to gain access to the building and carry out fire fighting and rescue operation. The decision on whether the condition is dangerous involves quick professional judgement, and it is of paramount importance for the BA to act expeditiously in case of emergency to protect life and property. Therefore, it is necessary to empower the BA to act immediately if he is of the opinion that an emergency situation exists for him to cause emergency works to be carried out.

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

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