

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

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3 April 2006

Legislative Council Secretariat
Legislative Council Building,
8 Jackson Road, Central,
Hong Kong.
(Attn.: Mr. Anthony CHU)

Dear Mr. Chu,

**Meeting-cum-luncheon between Legislative Council Members
and Kwun Tong District Council members
on 2 March 2006**

Illegal Building Structures

Thank you for your letter dated 17 March 2006. Having consulted the Buildings Department (BD), we would like to provide our response below.

The problem of unauthorized buildings works (UBWs) is serious in Hong Kong. Regarding the UBWs on Government land, the Lands Department (LandsD) has an established policy to deal with unauthorized occupation of Government land, including serving a notice on the site concerned requiring the suspected offender to cease the unauthorized occupation within a specified period. If the notice is not complied with, LandsD would consider evicting the offender from the Government land, taking possession of any property or structure on the land, demolishing the

structure on the land, and/or prosecuting the offenders identified. Most of the past cases involving UBWs on Government land have been rectified after the posting of relevant notices by LandsD.

In order to further enhance private building safety and to tackle the UBW problem more effectively, the Government has in 2001 established an enforcement policy specifying the priority of enforcement actions against different types of UBWs after extensive consultation with the public including the Legislative Council, the Land and Building Advisory Committee, District Councils, numerous professional and representative bodies and owners' corporations. The objective of the policy is to tackle UBWs in the whole territory through optimizing the use of resources (details are set out at Annex). In short, being a professional department, the BD would classify those UBWs which constitute obvious or imminent danger to life or property due to significant structural defect or fire hazard, or cause serious health hazards or environmental nuisance to the public as of "imminent danger" or "potential danger" and enforce against them as a matter of priority. For other existing UBWs, BD would consider taking enforcement action depending on individual circumstances.

The BD has been promoting the prioritized enforcement policy in leaflets circulated to the public, and the existing Buildings Ordinance has empowered the Building Authority (BA) to enforce and tackle UBWs effectively. As regards whether certain UBWs are of "imminent danger" or "potential danger", this would be determined having regard to various factors, including the environmental factor and professional judgment etc. Moreover, the circumstances of each case could be different. The Administration therefore considers it not appropriate to include the definition of "imminent danger" and "potential danger" into the legislation through legislative amendment.

Moreover, the BD has also launched large-scale operations to clear existing UBWs in selected target buildings in the whole territory. In curbing the proliferation of the problem, the BD also takes immediate enforcement actions against all new UBWs and has set up a Special Action Unit to deal with those UBWs that are under erection.

The Administration has an established rehousing policy to ensure that no one would be rendered homeless due to enforcement action taken by the

Buildings Department (BD) against illegal structures. Occupants of the illegal structures concerned would be referred to Housing Department (HD) to assess his/her eligibility under the existing rehousing policy. Those eligible will be rehoused to public housing, including interim housing.

In handling the UBW problem, BD has been maintaining close liaison with other relevant departments, including HD regarding rehousing arrangements for the occupants of UBWs affected by the enforcement action of BD as mentioned above. As regards the issue of rates charged by the Rating and Valuation Department, according to the Government's taxation policy, rates are a tax on occupation of property, and any property which can be separately occupied is liable to assessment, regardless of whether or not the structure is authorized. The assessment to rates and/or payment of rates in respect of any premises with unauthorized structures does not imply that these structures have legal status, nor does it grant any legal sanction or authorization to them. The BD has also been promoting on its homepage the message that payment of property tax or rates does not make an illegal structure legal.

It is indeed the owners' responsibility to ensure that no UBWs are erected on their premises with a view to ensuring the safety of the tenants and members of the public. BD would continue to strengthen the public's understanding of the problem of UBWs through promotion and education efforts.

In addition, the Building (Amendment) Ordinance 2004 which came into operation on 31 December 2004 has empowered the BA to issue a "Warning Notice" (WN) to an owner, and to register the WN in the Land Registry (LR) if the owner's UBWs are not demolished within a specified timeframe. The WN would be cancelled only after the lodgment of a satisfaction certificate in the LR by the BA upon the demolition of such UBWs by the owner. The WN policy serves to raise the community's awareness of UBWs as a legal liability. So far, 336 WNs have been issued in respect of UBWs in Kwun Tong, out of which 101 WNs have been registered in the LR due to non-removal of the UBWs within the specified timeframe.

Yours faithfully,

(Ms Agnes Ho)
for Secretary for Housing, Planning and Lands

c.c. DB (Attn : Mr. S.T. Lam)

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屋宇署清拆僭建物政策

Buildings Department's Enforcement Policy Against Unauthorized Building Works

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港僭建物問題嚴重，屋宇署估計全港約有七十五萬個僭建物。僭建物影響樓宇安全，業主為本身的利益著想，應主動安排清拆樓宇內的僭建物。至於樓宇公用地方的僭建物，大廈內所有業主應齊心合力，將之拆掉。

什麼是僭建物？僭建物は違例建築工程（違建工程）。凡未經建築事務監督事先批准的樓宇改建或改動，如鐵籠、空調機冷卻塔、簷篷、平台構築物、天台搭建物、分間單位、結構改動、渠管接駁等，均屬違建工程。所有違建工程均須拆除。

以屋宇署目前的資源，實難同時處理所有違建工程，故集中處理新建或對生命構成迫切危險的工程。業主有責任確保其物業沒有任何違例建築工程，以免對住客和公眾人士構成危險。

屋宇署集中資源優先清拆下列類別的僭建物：

- a 對生命財產明顯構成威脅或迫切危險的僭建物；
- b 新建的僭建物，不論主體樓宇的落成日期；
- c 位於樓宇內外、平台、天台、天井或後巷而被建築事務監督列為嚴重危害健康或對環境造成滋擾的僭建物(包括違例地盤平整工程)；
- d 個別大型僭建物；
- e 個別樓宇內外滿布的僭建物；
- f 大規模行動或維修計劃所涉及的個別或一組目標樓宇的僭建物；以及
- g 在採用環保設計並獲建築事務監督批准豁免計入建築樓面面積的樓宇部分(例如露台、空中花園或平台花園)的違例改建或違例工程。

屋宇署每年都會進行一連串「大規模清拆行動」，一次過清拆數以百計樓宇的外牆僭建物；這些行動有效地促使更多業主遵從本署的規定。屋宇署會以此模式進行大規模行動，尤其是清拆在樓齡20至40年樓宇外牆的僭建物，以及一些位於樓宇平台及天台、天井或後巷的僭建物。預計在五至七年內可以清拆15萬個至30萬個僭建物。

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he problem of unauthorized building works (UBWs) is serious in Hong Kong. The Buildings Department estimates that there are about 750,000 UBWs in Hong Kong. UBWs affect the safety of buildings. Owners should, in their own interest, take the initiative to organize for the demolition of UBWs in their premises. For UBWs erected in the common areas of a building, the co-owners of the building should co-ordinate for demolishing the UBWs.

What are UBWs? Any additions or alterations to buildings without the prior approval of the Building Authority are regarded as UBWs, such as metal cages, air-conditioning cooling towers, canopies, flat roof structures, rooftop structures, subdivision of flats, structural alterations, drainage connections, etc. All UBWs are liable to be demolished.

In view of the very large number of UBWs in Hong Kong, the Buildings Department takes immediate enforcement action against all new UBWs and UBWs which pose an obvious hazard to life or property. Priority will be given to the removal of the following types of such works :-

- a items constituting obvious or imminent danger to life or property;
- b new items, irrespective of the date of completion of the building where they have been carried out;
- c items in or on buildings, on podiums and rooftops, in yards and lanes (including unauthorized site formation works) constituting a serious hazard or a serious environmental nuisance, as determined by the Building Authority;
- d major individual items;
- e items in or on individual buildings with extensive unauthorized building works;
- f items identified in buildings or groups of buildings targeted for large-scale operations or maintenance programmes; and
- g unauthorized alterations to or works in environmentally friendly features of a building (e.g. balconies, sky or podium gardens) for which exemption from calculation of gross floor area has been granted by the Building Authority.

Every year the Buildings Department launches a series of "blitz" operations to clear at one go all external unauthorized works on hundreds of buildings. This has considerably raised owners' compliance. The Buildings Department will adopt this approach for major clearances, particularly those items on the external walls of buildings 20 to 40 years old and some on podiums and rooftops or in yards and lanes. These operations will remove 150,000 to 300,000 unauthorised building works in five to seven years.