

**LEGISLATIVE COUNCIL
BILLS COMMITTEE ON BUILDINGS (AMENDMENT) BILL 2010**

**Selection of Target Buildings and Assistance to Owners in Need
in Mandatory Building and Window Inspection Schemes**

PURPOSE

In response to Members' request at the meetings of the Bills Committee on the Buildings (Amendment) Bill 2010 (the Bill) on 31 March 2010 and 19 April 2010, and also Members' views that the captioned topics are major ones that should be discussed in detail in the Bills Committee¹, this paper outlines our proposed arrangements under the Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS).

RESPONSIBILITY OF BUILDING OWNERS AND GOVERNMENT'S ASSISTANCE

2. It is an established community consensus that building owners are primarily responsible for properly maintaining their buildings, including shouldering the financial commitment for the concerned inspection and repair works. At the same time, we recognise that some owners may not possess adequate knowledge, expertise or financial ability to fulfill the requirements of regular inspection and repair. Whilst the smooth implementation of the MBIS and MWIS will depend on the active participation of owners who have the obligation to comply with the statutory notices to inspect and repair their own properties, the Government and our partner organisations will continue to offer suitable assistance to owners in need.

3. Through the implementation of the Operation Building Bright (OBB), the Buildings Department (BD), Hong Kong Housing Society (HKHS) and Urban Renewal Authority (URA) have further consolidated their partnership in promoting building safety. With the BD focusing on its statutory role to take enforcement actions, and the HKHS and URA on the provision of practical advice and technical support, the three organisations have created much synergy in taking forward their shared goal of improving building safety in Hong Kong. With the partnering model so developed, we will utilise our experience gained to provide advice and assistance to owners in complying with the two Schemes.

¹ "Target buildings" and "Providing assistance to owners' corporations/owners" are topics agreed by Members for inclusion in the "Outline of major topics to be discussed" for the Bills Committee.

OBSERVATIONS FROM OBB AND PAST ENFORCEMENT OPERATIONS

Establishment of Owners' Corporations

4. From the experience of the OBB, the need to coordinate building works will speed up the formation of owners' corporations (OCs) by owners in buildings without OCs. According to our rough estimate, the OBB has induced or sped up the formation of OCs amongst about 12% of the participating buildings that are originally without OCs. We are continuing to streamline our procedures and package of assistance to owners and hope that we can encourage even more building owners to improve the maintenance and management of their properties. We also hope that the implementation of the MBIS and MWIS will encourage more building owners to establish OCs.

5. According to our statistics, about 40% of the some 40,000 private buildings in Hong Kong have OCs established. Some buildings that do not have OCs have some form of management bodies or property management companies employed. Only about 26% of buildings aged 30 years or above are without any form of management (without OCs, management committees or property management companies). We will focus our assistance on this kind of buildings.

Compliance with Statutory Orders by Building Owners

6. It is our observation that upon the receipt of statutory orders, owners tend to be more determined to organise themselves to conduct the required works. From BD's past experience of issuing repair orders under the Buildings Ordinance (Cap. 123), only around 8% of the cases eventually required BD's intervention in carrying out the repair works. We believe that, with the availability of various technical and financial assistance schemes and the cultivation of a building safety culture, owners will take swifter voluntary action in complying with the statutory notices and maintaining their properties.

SELECTION OF TARGET BUILDINGS AND PROVISION OF ASSISTANCE

7. Our objective is to select an appropriate number of buildings for inclusion in the MBIS and MWIS every year and provide adequate assistance to owners in need during the various stages of inspection and repair works.

Selection of Target Buildings

8. Our current plan is to select about 2 000 and 5 800 target buildings every year for the MBIS and MWIS respectively. To spread over the workload for both the professional personnel and contractors in the market and the implementation agencies, we will select target buildings on a quarterly basis, i.e. 500 and 1 450 target buildings per quarter respectively for the two Schemes.

9. A wide variety of relevant factors will be taken into account in the selection of buildings. Proposed selection criteria include –

- (a) building age;
- (b) building condition (including the presence and extent of defects on external walls, building structures and drainage system in common areas);
- (c) repair records (including participation in the Voluntary Building Classification Scheme and OBB; inclusion in the Coordinated Maintenance of Building Scheme as well as BD's large scale operation, recent inspection of buildings aged 50 years or above and BD's pre-war building inspection programme; past compliance record of the BD's repair orders; etc.); and
- (d) location (whether the buildings are on streets with heavy pedestrian or traffic flow).

10. We will select a combination of target buildings with different conditions and needs in MBIS and MWIS every quarter. In fact, we believe that most dilapidated or poorly managed buildings should have been covered in the Government's past enforcement programmes or assistance schemes. The selected target buildings for each year will represent a mix of buildings in different conditions and age profiles. Those relatively better managed buildings that can comply with the statutory notices swiftly will set good examples for other buildings and disseminate success stories. We believe that they will inspire other building owners to speed up their repair works.

11. To minimise disturbance to owners, we will synchronise the implementation of the MBIS and MWIS as far as practicable. Arrangements will be made so that buildings selected for the MBIS will also be selected for the MWIS under the same cycle such that the owners can carry out inspection and repair works under both Schemes concurrently.

Participation of Professionals and Community Members in Building Selection

12. To enhance the transparency in the target building selection process and promote community participation, the BD will establish a selection panel comprising representatives from professional bodies (such as the Hong Kong Institute of Architects, Hong Kong Institution of Engineers and Hong Kong Institute of Surveyors), relevant non-government organisations (such as the HKHS and URA), property management professionals, District Council members and relevant Government departments (such as BD and HAD). The selection panel will provide advice to the BD in the selection of target buildings. This way we can absorb the expertise and experience from building maintenance and management fields as well as suggestions from members of the community to ensure that implementation of the Schemes can be suitably phased every year.

Stage-by-stage Assistance to Owners in Need

13. The Government, together with the HKHS and URA, will provide a comprehensive range of assistance to building owners during the various stages of building inspection and repair.

Pre-Notice Stage

14. Our aim is to give ample time for building owners to organise themselves and make preparations for the inspection and repair works. This is particularly important for those buildings without OCs or proper management bodies, and also those without prior experience in coordinating repair works for common areas.

15. Building owners will be given prior notice before the formal issuance of statutory notices. After the selection of target buildings each quarter, the BD will inform the owners of these target buildings that their buildings have been selected for the MBIS and/or MWIS and that statutory notices will be issued six months later. This six-month period will allow owners to get prepared and plan ahead. Each building will be assigned a single contact point, either from HKHS or URA, so that owners only need to get in touch with “one stop” for enquiries and assistance. In parallel with the public education and publicity programmes for the MBIS and MWIS, district briefing sessions will be organised for buildings both with and without OCs to explain to owners the details of the two Schemes and the assistance package available. As the Government, HKHS, URA are involved in the building selection process, they will have a good grasp of the management conditions of the selected target buildings and understand which buildings are most in need of assistance. For buildings that are without any form of management and are most in need of

assistance, the Government, HKHS and URA will proactively approach and contact the building owners to encourage and help them organise the inspection and repair works. Building maintenance and management is not a one-off task and should not cease after the compliance of the statutory notices of MBIS/MWIS. Our goal is to encourage building owners to organise themselves to coordinate maintenance and repair works for their buildings in the long run. With this objective in mind, the Government, HKHS and URA will help owners in buildings without proper management to establish OCs by providing technical advice and financial assistance.

Compliance of Statutory Notices

16. Six months after the notification, the BD will gazette the list of target buildings and issues statutory notices to the owners. When setting the statutory timeframes for compliance of notices, the BD will make reference to the progress of preparation of the buildings during the six-month pre-notice period. Longer timeframe may be allowed for buildings which are forming OCs or are preparing for inspection and repair works but encounter genuine difficulties. We appreciate that it will take time for buildings without management to establish OCs from scratch and owners may not be able to do so on time to comply with the statutory notices. Indeed, even without an OC, owners of a building may still be able to group together and agree to proceed with the inspection and repair works. Prior to the formal establishment of OCs, the Government, HKHS and URA will assist the owners in need in convening owners' meetings to discuss the organisation of works for compliance with the statutory requirements under the MBIS and MWIS. While details on how to authorise the commencement of works will vary in accordance with the requirements stipulated in the deed of mutual covenant from building to building, we believe that, if enough owners are determined to join hands to coordinate and organise, there is a chance that the works can proceed even before the establishment of an OC.

17. The HKHS and URA will provide a full range of technical assistance to OCs and owners in need to guide them in carrying out inspection and repair works. Practical advice covers details concerning the tendering process, selection of inspectors and contractors as well as monitoring of the progress of works. The organisations will draw building owners' special attention to anti-corruption and anti-tender-rigging procedures. The HAD will also provide advice to owners on building management issues. For all buildings, including those with good management, they may obtain information from the HKHS and URA on matters concerning the MBIS and MWIS and other building maintenance issues. With their local network, including the HKHS's ten Property Management Advisory Centres and URA's district agencies, the two organisations will provide necessary information to all buildings in Hong Kong.

18. On financial assistance, the HKHS and URA will subsidise eligible owners in need the full cost² of first building inspection under the MBIS. The BD, HKHS and URA will also continue to provide financial assistance under their various existing schemes for the required repair works, including the Comprehensive Building Safety Improvement Loan Scheme administered by BD, the Building Maintenance Grant Scheme for Elderly Owners and Building Management and Maintenance Scheme administered by HKHS, as well as Building Rehabilitation Materials Incentive Schemes and Building Rehabilitation Loan Schemes of the URA. We are exploring how to consolidate the various schemes administered by different implementation agencies so that they can better meet the needs of building owners.

19. As a last resort, if, after repeated attempts by the HKHS and URA, the owners are still unable to coordinate and organise to fulfill the statutory requirements under the two Schemes, the BD may consider, based on public safety reasons, carrying out the inspection or repair works and subsequently recovering the cost and surcharge from the owners. We must emphasise that this is only a last resort, and owners who have the ultimate responsibility to properly maintain their own properties must not rely on the Government's intervention in the long run.

Post-notice Stage

20. Whilst the MBIS and MWIS will only require the compliance of statutory notices once every ten and five years respectively, building maintenance and management is not a one-off task. After the formation of an OC, district offices (DOs) under the HAD will provide owners with advice and assistance on building management problems, such as through attending OC meetings upon invitation to provide support on the operation of an OC. DOs will also handle enquiries and complaints relating to building management and offer help and assistance in resolving disputes among owners, OCs and management companies. The HAD also regularly organises education and publicity activities such as training sessions, workshops and talks, and invites professionals from government departments and industries concerned such as housing managers, surveyors, accountants and insurance practitioners to share their professional expertise on building management with owners and OCs.

² Subject to a cap to be determined in accordance with the number of units in a building.

WAY FORWARD

21. We fully recognise that for the MBIS/MWIS to be successful, a pre-requisite is the provision of adequate assistance to owners in need. We will continue to gain experience from our existing programmes as they continue to evolve and further enhance our assistance package to building owners. For example, building on the experience gained from the OBB, we are refining our “one-stop service” to better facilitate building owners in coordinating building works. A recent initiative is a comprehensive telephone hotline which will be jointly launched by the HKHS and URA shortly. Building owners can obtain information on all kinds of building maintenance assistance schemes administered by the Government, HKHS and URA, by calling the single hotline. We are also exploring room to consolidate the various technical and financial assistance programmes with a view to enhancing convenience of building owners in making applications as well as saving administrative time and cost.

22. In parallel with the scrutiny of the Bill, the Administration is comprehensively reviewing the overall strategy to tackle the issue of building safety in Hong Kong as well as exploring room to further consolidate the efforts between the Government and our partner organisations as mentioned above. The Administration will ensure that there will be sufficient resources for the Departments to handle the workload arising from the MBIS and MWIS. We will make arrangements for resource allocation for the Departments through the established procedures. The HKHS and URA will also reserve adequate manpower and resources to support the implementation of the MBIS and MWIS. Nevertheless, building safety and management is an issue that requires the concerted efforts of the whole community. In parallel, we will continue our efforts on our public education programme to arouse and sustain people’s awareness and cultivate a building safety and management culture.

ADVICE SOUGHT

23. Members are invited to comment on our proposals outlined above.

Development Bureau
April 2010