

香港特別行政區政府

The Government of the Hong Kong Special Administration Region

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18 February 2011

Clerk to Panel on Development
(Attn: Ms Connie SZETO)
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Ms SZETO,

Panel on Development

Blocking of Windows Legally Constructed

Thank you for your Secretariat's letter of 26 January 2011 on the captioned subject. I provide below the response from the Development Bureau and Buildings Department (BD) to the issues raised in the letter from Hon Kam Nai-wai attached to your letter.

Lighting and Ventilation Requirements

Under the Building (Planning) Regulations (Cap 123 sub. leg. F) (B(P)R), rooms intended for habitation or for the purpose of an office are required to be provided with natural lighting and ventilation. Such natural lighting and ventilation shall be provided by means of "prescribed windows" which should either face into a street of not less than 4.5m or into an uncovered and unobstructed rectangular horizontal plane within the site boundary. To ensure the provision of sufficient lighting and ventilation to occupants of a building, the B(P)R also stipulates that no building shall be erected in such a manner as to reduce the quantity of light and air available to any other building which has been erected in accordance with the B(P)R below that required under the regulations. Please refer to **Annex A** for the relevant clauses of the B(P)R.

Wing Shun Building is a 15 storey commercial building situated at 64-66 Bonham Strand West. According to the approved plans dated 2 Jan 1969, the “prescribed windows” for the building are provided on the wall facing Bonham Strand West at the front and the wall facing a lane at the rear. In addition, there are side windows provided at the external wall abutting the common boundary with the site of the concerned hotel development. These side windows are only windows provided in addition to the statutory requirements as they are not the “prescribed windows” mandatorily required under the B(P)R. Sufficient lighting and ventilation are already provided to Wing Shun Building by the aforementioned “prescribed windows” facing Bonham Strand West and the rear lane.

Regarding the concerned hotel development adjoining Wing Shun Building, the building plans were first approved in February 2009. In approving the building plans for this development, the BD has already considered the situation to ensure that sufficient lighting and ventilation will still be provided to the occupants of Wing Shun Building through the “prescribed windows”. As the aforementioned side windows are not “prescribed windows”, the hotel development will not affect Wing Shun Building’s compliance of the statutory requirements on lighting and ventilation. The two buildings will still be in compliance of the requirements of the BO and the B(P)R in this regard.

Fire Resistance Considerations

In processing the building plans for the concerned hotel development, the BD has also taken into account the requirements under the Code of Practice for Fire Resisting Construction 1996 (the Code), under which no unprotected openings are allowed in the external wall facing the common boundary. The purpose of this requirement is to provide adequate protection against the spread of fire from one building to another. Please refer to **Annex B** for the relevant requirements of the Code.

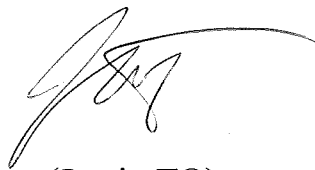
As Wing Shun Building’s building plan was approved in 1969 (i.e. before the Code came into effect) and that the Code does not have retrospective application to a building constructed before its promulgation, Wing Shun Building is not subject to the requirements of the Code. Nevertheless, such situations have already been taken into consideration by the Code, which is applicable to the building plans of the concerned hotel development. To comply with the requirements of the Code, the developer of the hotel has planned to construct a solid external wall without openings along the common boundary adjoining Wing Shun Building’s lot. This solid external wall, which is in compliance with the Code, will satisfy the requirements of the Code on prevention of spread of fire, and will provide sufficient protection to the occupants of both buildings.

Similar Cases

Construction sites involving old buildings at adjoining lots are not uncommon in Hong Kong and the BD has dealt with similar situations before. However, the Department does not specifically keep statistics on the number of such cases. To ensure safety of buildings, the BD will ensure that building plans in such similar cases are in compliance with the requirements of the BO, its subsidiary regulations as well as the various codes, and that building plans of new building developments will not cause existing buildings to be in contravention of the above legislations and codes.

The dispute over non-prescribed windows in the Wing Shun Building incident is a civil matter between the hotel developer and the occupants of Wing Shun Building. When handling this type of cases, the BD will, in general, also provide assistance to facilitate the resolution of disputes between the developer and the concerned owners. For the case of Wing Shun Building, the BD has arranged meetings between the owners and the developer and most of the affected owners have subsequently reached agreements with the developer. The contractor of the developer has agreed to help the owners who have accepted the proposal to block up some of the windows and relocate the air-conditioners together with the racks on the concerned external wall. The BD will continue to monitor the situation and will provide further assistance to the owners as necessary.

Yours sincerely,



(Justin TO)

for Secretary for Development

c.c. Prof Hon Patrick LAU Sau-shing, SBS, JP
Director of Buildings

(Attn: Mr Andy S YIP)

Annex A

Relevant Clauses of Building (Planning) Regulations (Cap 123 sub. leg. F)

Section 30 of Building (Planning) Regulations

Lighting and ventilation of rooms used or intended to be used for habitation or as an office or kitchen

- (1) Every room used for habitation or for the purposes of an office or as a kitchen shall be provided with natural lighting and ventilation.
- (2) Such natural lighting and ventilation shall be provided by means of one or more windows which shall be-
 - (a) so constructed that-
 - (i) the aggregate superficial area of glass in the window or windows is not less than one-tenth of the area of the floor of the room; and
 - (ii) the windows can, to an extent at least equal in the aggregate to one-sixteenth of the area of the floor of the room, be opened in such manner that the top of the opening of each window is at least 2 m above the level of the floor or, in the case of detached and semi-detached buildings, at least 1.9 m above the level of the floor; and
 - (b) such that not less than the area required by sub-paragraph (a)(i) (hereinafter referred to as the prescribed window) faces directly into the external air.

Section 31 of Building (Planning) Regulations

Minimum requirements of window

- (1) No prescribed window shall, for the purposes of regulation 30, be deemed to face into the external air unless-
 - (a) it faces into a street which is not less than 4.5 m wide; or
 - (b) it faces into a space uncovered and unobstructed above the area delineated by the rectangular horizontal plane; and
 - (c) it is so placed that, if another rectangular plane, the base whereof is equal to and common with the base of the rectangular horizontal plane, is inclined, above the rectangular horizontal plane, at an angle of 71 1/2 degrees

from the horizontal where the window is in a room used for habitation or 76 degrees from the horizontal where the window is in a room used for the purposes of an office or as a kitchen, no part of the building, or of any other building within the site on which such building is erected, protrudes above such plane; or

- (d) where such window opens on to an area bounded on the side opposite the window by a boundary of the site on which the building is erected, such window is so placed that, if the rectangular horizontal plane is projected to such boundary and, from the position at which it first intersects the boundary, another rectangular plane, the base whereof is parallel and level with the sill of the window and has a length equal to the length of the base of the rectangular horizontal plane, is projected, towards the site and above the rectangular horizontal plane, at an angle of $80 \frac{1}{2}$ degrees from the horizontal where the window is in a room used for habitation or 83 degrees where the window is in a room used for the purposes of an office or as a kitchen, no part of the building, or of any other building within such site, protrudes above such inclined plane:

Provided that, where there is a service lane or street less than 4.5 m wide adjacent to and parallel with such boundary, the boundary shall, for the purposes of this sub-paragraph be deemed to be at a position 1.5 m beyond such boundary.

- (2) The rectangular horizontal plane shall be such that-
- (a) it has an area of not less than 21 m^2 ; and
 - (b) the minimum length of the base is not less than 2.3 m; and
 - (c) the minimum length of the sides at right angles to the base, between the wall in which the window is sited and any other wall or building opposite thereto within the boundary of the site on which the building is erected, is not less than 4.5 m; or
 - (d) where the window opens on to an area bounded on the side opposite to the window by a boundary of the site on which the building is erected, the minimum length of the sides at right angles to the base, between the wall in which the window is sited and such boundary, is not less than 2.3 m; or
 - (e) where the window opens on to an area bounded on the side opposite to the window by a boundary or the site on

which the building is erected and there is a service lane or street less than 4.5 m wide adjacent to and parallel with such boundary, the minimum length of the sides at right angles to the base, between the wall in which the window is sited and a line 1.5 m beyond such boundary or, where such service lane or street is less than 3 m wide, between the wall in which the window is sited and a line drawn along the centre line of the service lane or street, is not less than 2.3 m.

(3) For the purposes of this regulation-

- (a) "base" (底邊), when used in relation to the rectangular horizontal plane, means that side of the rectangular horizontal plane common with the line of the sill of the window;
"rectangular horizontal plane" (矩形水平面) means a rectangular plane at the level of the sill of the window having the minimum area and minimum dimensions prescribed by paragraph (2);
"window" (窗) includes french window; and
- (b) the sill of a prescribed window shall be deemed to be at a level 1 m above the level of the floor of the room for which the prescribed window is provided, whether or not the sill is at such level.

Section 37 of Building (Planning) Regulations

Light and air not to be diminished

No building shall be erected in such a manner as to reduce the quantity of light and air available to any other building, which has been erected in accordance with these regulations, below that required under these regulations.

Relevant Requirements of Code of Practice for Fire Resisting Construction
1996 (Excerpt)

7. Protection of Adjoining Buildings

- 7.1 Every building should be suitably enclosed by fire-resisting external walls and roof to ensure protection against spread of fire to adjoining buildings.
- 7.2 Buildings on the same site are regarded as adjoining buildings if they are less than 1.8 m apart. Any part of any such building within 1.8 m of any such adjoining building should be enclosed by imperforate external walls and roof having the same fire resistance period ("FRP") as that of the internal elements of construction. Openings protected by fixed lights having an FRP of not less than 1/2 hour, 1 hour in the case of a required staircase or its lobby, may however be made in such external walls and roof provided that they are not less than 900 mm from any part of any such adjoining building having an FRP of less than that of the internal elements of construction.
- 7.3 Notwithstanding paragraph 7.2, unprotected openings may be made in any such external walls and roof of any building provided they are not less than 1.8 m from any unprotected opening in any such adjoining building.
- 7.4 Any part of any building within a distance of not more than 900 mm of a common boundary with an adjoining site should be enclosed by imperforate external walls and roof having the same FRP as that of the internal elements of the construction. Openings protected by fixed lights having an FRP of not less than 1/2 hour, 1 hour in the case of a required staircase or its lobby, may however be made in such external walls and roof provided they are not less than 450 mm from such boundary.