

Legislative Council Panel on Transport
Subcommittee on Matters Relating to Railways

Mechanism for Handling Complaints and Compensation Claims
Concerning Construction of New Railway Lines

Introduction

In the meeting of Subcommittee on Matters Relating to Railways on 2 March 2012, Members requested for a discussion on the complaints about the impact to buildings by new railway works. This paper briefs Members on the mechanism for handling complaints and compensation claims concerning building structures affected by the construction of new railway projects.

Background

2. Over the past 30 years or so, the MTR Corporation Limited (MTRCL) has been building underground railway stations or tunnels by means of boring or drill and blast in densely populated and built-up urban areas, accumulating considerable experience in this field. To comply with international practices and standards, the MTRCL will decide whether to build the tunnels and underground stations by boring or drill and blast after taking into account factors such as geological conditions, tunnel design and surrounding environment. Many of the existing underground railway stations and tunnels were built by boring or drill and blast. Examples of construction by drill and blast method include Tai

Koo Station and North Point Station, and the railway tunnels between Fortress Hill Station and Shau Kei Wan Station of the Island Line as well as the Tai Lam Tunnel of the West Rail Line. The Kowloon Southern Link was constructed by boring. It has been proven by experience that these construction methods will not affect the structural safety of nearby buildings.

3. The MTRCL is now undertaking five new railway projects. The West Island Line, the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Express Rail Link), the South Island Line (East) and the Kwun Tong Line Extension projects started construction in the period between 2009 and 2011, with completion targeted between 2014 and 2015. Construction of the Shatin to Central Link project is also expected to start in mid-2012, and will be completed in phases in 2018 and 2020 respectively. Railway projects currently underway are the West Island Line, the Express Rail Link, the South Island Line (East) and the Kwun Tong Line Extension. Except the tunnel works of the Kwun Tong Line Extension which have not yet commenced, the other three railway projects are undergoing tunnel construction works.

Design and Planning for Railway Projects

4. In the alignment design of new railway projects, we will comprehensively take into account a number of factors including technical requirements of the alignment, structures of nearby buildings, underground utilities, geotechnical and operational aspects, etc. This will enable us to determine the appropriate alignment, construction

method and relevant mitigation measures to minimize the impact to the neighbouring communities, traffic, environment, existing infrastructure facilities and buildings.

5. For the five new railway projects being implemented, most of the alignments will be running inside tunnels. In addition, many new stations or extension of stations are underground. Hence, these projects involve mainly underground construction. The tunnels have been designed to go underneath existing roads or government land as far as practicable to minimize impact to the community and the buildings nearby. However, many urban areas of Hong Kong are densely packed with buildings. Railway tunnels thus inevitably have to pass through the underground stratum of or close to some buildings. We will ensure, in both design and construction stages, that these buildings are structurally safe.

(i) Design Stage

6. During the design stage of new railway projects, the MTRCL will duly and comprehensively conduct assessments and surveys on the environment, geology, underground utilities and buildings in the vicinity of the railway alignment and its working areas. This will ensure that the environment and the structural integrity of buildings nearby will not be affected by the design and construction works of the railway project. This will also help determine the most suitable construction method and reduce the impact to the local community. The most commonly adopted tunnelling methods in these projects include open cut, drill and blast, and boring using tunnel boring machines, etc. No matter which kind of construction method is adopted, the environment and structural safety of nearby buildings should not be affected.

7. To safeguard the interests of the owners and occupiers, and to formulate the most suitable construction method and preventive procedures during construction, the MTRCL will engage building professionals to carry out “pre-construction building condition surveys” for nearby buildings and structures before the commencement of works so as to record the conditions of the buildings in the vicinity of the works areas. To conduct such survey for a building, the MTRCL has to obtain the prior consent of the owners as well as the occupiers. The MTRCL will try the best to conduct the surveys on dates and times proposed by the occupiers.

8. As the survey reports contain information on the interior conditions of the flats involved, the MTRCL will pass the reports directly to the owners of the relevant flats upon their requests so as to protect their interests and privacy.

(ii) Construction Stage

9. In case drill and blast procedures are required, according to the Dangerous Goods Ordinance, the MTRCL needs to obtain a license for the use of explosives before carrying out blasting works. The MTRCL has to submit a “blasting assessment report” to the Mines Division of the Civil Engineering and Development Department for approval. The report covers, inter alia, the noise and vibration generated during blasting. The report also has an assessment on the impact of the works to nearby buildings and public facilities to ensure the structural safety of these buildings. During the construction period, qualified professionals will be engaged by the MTRCL to implement a set of stringently controlled works procedures so as to ensure compliance with the requirements set

out in the Buildings Ordinance and other relevant legislations.

10. The Buildings Department will also request the MTRCL to install sufficient monitoring devices around the works site before construction to monitor the airflow and vibration generated by the works. If a building is found to have been affected by the works, the MTRCL will have to take appropriate actions immediately to prevent aggravation of the problems concerned. If necessary, the MTRCL will suspend the works concerned and submit a report with proposed mitigation measures to the Buildings Department for agreement.

Enquiries and Complaints

11. Soliciting views from the public is essential for the implementation of new railway projects. The Government and the MTRCL have given due attention in communicating with the public. We will make our best effort in consulting the public and local stakeholders about railway projects as well as responding to their concerns.

12. To facilitate the public and local stakeholders expressing their views concerning railway projects and making enquiries, the Government and the MTRCL have established various communication channels, including mailing, fax, e-mail and the dedicated MTR Projects Hotline 2993 3333. In addition, through community liaison groups set up by the MTRCL and the Highways Department under various railway projects under construction, the public can acquire the latest information of the railway projects and directly communicate with the MTRCL and relevant

Government departments about their views and enquiries.

13. On receipt of complaints from the public on the railway projects, the Government and the MTRCL will promptly contact the complainants to acknowledge the receipt of complaints, investigate the case details and follow up. The complainants will be informed of the follow up actions and results of investigation as soon as possible.

14. As regards the complaint figures on railway works affecting building structures, by end of February 2012, we have received 135 cases on the West Island Line, 83 cases on the Express Rail Link (involving locations in Yuen Long, Tsuen Wan, Sham Shui Po and Yau Tsim Mong areas), and 4 complaint cases on the South Island Line (East) from the Southern District. As for Kwun Tong Line Extension, no complaint has been received so far. Among these complaint cases, 74 cases of the West Island Line, 44 cases of the Express Rail Link and 1 case of the South Island Line (East) have been referred to loss adjusters for investigation. The loss adjusters have completed the investigation of 111 of these cases and have confirmed that the identified damages to buildings will not affect building safety.

Mechanism for Handling Compensation Claims by the MTRCL

15. When the MTRCL receives a complaint about building damage, MTRCL's project team will arrange for a preliminary inspection of the building damage with the complainant. Depending upon the nature of the case, the MTRCL may refer the case to the loss adjuster for assessment. The loss adjuster, which is employed by an insurance

company acting as a third party and not employed by the MTRCL, will assess the claim case in an independent, professional and open manner. This well-established practice has been widely adopted in Hong Kong and other countries for handling building damage claims. The loss adjuster will arrange for a joint inspection with the owner, the MTRCL and its contractor. If the assessment by the independent loss adjuster indicates that the identified damages to the building are caused by the railway works, the MTRCL and its contractor will discuss with the claimant about the arrangement of repair works. The claimant does not require to commission surveyors for verifications.

16. Moreover, the claimant may also lodge the complaint to the Buildings Department. As the case may require, the Buildings Department will arrange staff to inspect and conduct detailed analysis so as to make an assessment on the overall structural safety of the building.

Mechanism for Compensation Claims under the Railways Ordinance

17. Any person suffering from loss or damage incurred from railway works may serve written notice to the Secretary for Transport and Housing (the Secretary) to claim compensation before the expiration of one year from the completion date of the railway works. A claim submitted to the Secretary should include information of the claimant, the relevant land or property, the amount of the claim, how the amount claimed is calculated, etc. Claims can also be resolved by negotiations between both parties, not necessarily involving judicial procedures. If agreement cannot be reached on compensation within 7 months from the

receipt of the claim by the Secretary, either party may refer the claim to the Lands Tribunal launching the judicial procedures for determination.

Conclusion

18. On the course of implementing new railway projects, the MTRCL and its contractors will strive to bring the impacts of the works on neighbouring community to a minimum. The Highways Department, the MTRCL and its contractors have all along been in close contact and dialogue with the residents including making briefings and responses to the concerns of the residents, owners' committees/corporations and local communities, holding regular community liaison group meetings, distribution of leaflets about tunnelling methods and arrangement of site visits for relevant parties to inspect tunnel works, in which engineers will give briefings on works procedures and relevant safety measures.

Transport and Housing Bureau

MTR Corporation Limited

April 2012