

**Motion on “Stepping up regulation on the repair and
maintenance works of private buildings”
at the Legislative Council Meeting
of 10 June 2015**

Progress Report

Purpose

At the Legislative Council (LegCo) Meeting held on 10 June 2015, the motion on “Stepping up regulation on the repair and maintenance works of private buildings” moved by Hon Tony TSE as amended by Hon KWOK Wai-keung, Hon CHAN Hak-kan and Hon WU Chi-wai was passed. The wording of the motion is **at Annex**. This paper briefs Members on the progress of the subject.

Assisting property owners in coordinating maintenance, repair and management works

2. While building management is the responsibility of property owners, the Home Affairs Department (HAD) seeks to facilitate, encourage and assist owners to form suitable organisations (e.g. owners’ corporations (OCs)) through multi-pronged measures, and provide necessary support to assist them in discharging their building management responsibilities. To provide targeted support for property owners/OCs, HAD has set up a dedicated Division in the Headquarters and District Building Management Liaison Teams (DBMLTs) in 18 District Offices (DOs). The DBMLTs provide outreach services to OCs and property owners, including assisting property owners to incorporate under the Building Management Ordinance (Cap. 344) (BMO), attending owners’ meetings to give advice and assistance, organising training courses and workshops and offering assistance in mediation of disputes etc.

3. In recent years, HAD has launched a number of initiatives to further strengthen the professional support for property owners, residents and OCs. Details as follows:

Rendering support to owners and residents of “three-nil” buildings

Building Management Professional Advisory Service Scheme

4. To strengthen our support to old buildings, in particular the “three-nil” buildings (i.e. buildings without OC or any form of owners/residents organisations or property management company), HAD has since 2011 implemented the Building Management Professional Advisory Service Scheme by engaging professional property management companies to conduct management audits for the fire services, electrical and other common facilities of the targeted buildings, assist in forming OCs and applying for various subsidies or loan schemes, and follow up on the maintenance and tendering works.

Resident Liaison Ambassadors Scheme

5. Noting that old buildings have great difficulties in forming OCs and taking care the day-to-day management of the buildings as most of the owners are not residing in the buildings concerned, HAD rolled out the Resident Liaison Ambassador (RLA) Scheme in November 2011 with a view to assisting the government departments to liaise with the residents residing in the buildings to work together on routine building management, security and fire safety issues. Apart from improving the management of the building, RLAs help reflect to government departments concerned the potential safety problems of the buildings for speedy follow-up. In the long run, RLA Scheme can help owners of old buildings to form OCs to further improve the management and maintenance of their buildings.

Rendering support to owners and OCs

Free legal advisory service on building management and Pilot Scheme on Free Mediation Service

6. Since January 2015, HAD, supported by the Law Society of Hong Kong, has provided free legal advisory service to owners and OCs on legal matters relating to building management.

7. On the other hand, when disputes concerning building management issues appear, HAD will refer both disputed parties, under mutual agreement, to the Pilot Scheme on Free Mediation Service launched by HAD in collaboration with the Hong Kong Mediation Council and the Hong Kong Mediation Centre in March 2015. Professional mediation service will be provided to the disputed parties

with a view to assisting them to reach a settlement through mediation.

“AP Easy” Building Maintenance Advisory Service Scheme

8. In April 2014, HAD has implemented a one-year pilot “AP Easy” Building Maintenance Advisory Service Scheme (“AP Easy” Scheme) in collaboration with the Hong Kong Institute of Surveyors, the Hong Kong Institution of Engineers and the Hong Kong Institute of Architects. Members of these professional institutes form expert teams to render on a voluntary basis tailor-made professional advice in respect of the appointment of appropriate authorized persons, drafting tender/ contract documents and analysing tenders to OCs intending to carry out building maintenance works but without the support of the building management companies.

9. As some OCs participating in the scheme have their building maintenance works under planning, HAD, with the consent of the three professional institutes, has extended “AP Easy” Scheme for another one year till March 2016 with a view to continuing the support services to those OCs and to allow more eligible OCs to benefit from the Scheme. HAD has also organised theme talks on how to appoint consultants/authorized persons for OCs.

Community Care Fund – Subsidy for Owners’ Corporations of Old Buildings

10. To render support to owners of old buildings with low rateable values to improve their building management, HAD has launched the “Subsidy for Owners’ Corporations of Old Buildings” (the Subsidy) under the Community Care Fund to provide OCs of these buildings with financial subsidies to foster better building management and encourage more owners of “three-nil” buildings to form OCs. The Subsidy was rolled out in October 2012 for three years. Eligible OCs may apply for subsidy, on an accountable basis, in respect of expenses procured during the implementation period of third party risks insurance for the common parts, inspection of fire services and electrical equipment and clearance of fire escapes.

“LEAD Programme” and “BM Link”

11. To enhance their knowledge in building management so as to facilitate them to discharge their duties more confidently and effectively,

HAD has since 2011 engaged tertiary institutions to provide structured training programmes for the management committee members. HAD has also engaged experienced legal practitioners in advanced programmes for the graduates of “LEAD Programme”. The advanced programme will look into the common building management problems (e.g. water seepage, unauthorised building works) in depth and also explore related laws and judgment of court cases, to help graduates tackle similar management problems in future.

12. The HAD also sets up the “BM Link” for the graduates. Through regular gatherings, members could share their experience and exchange views in building management matters. Regular outreaching activities are organised so that the graduates could serve as “mentors of the public” to promote building care culture in the community.

“Panel of Advisors on Building Management Disputes”

13. To assist owners and OCs in resolving their disputes, specifically those persistent and difficult cases, HAD set up in October 2011 the Panel of Advisor on Building Management Disputes (the Panel) to provide neutral and authoritative advice on dispute cases referred by DOs. The Panel comprises members of various professional backgrounds, including lawyers, accountants, surveyors and property managers.

Providing financial and technical assistance on building maintenance to property owners

14. The Development Bureau, the Hong Kong Housing Society (HKHS) and the Urban Renewal Authority (URA) have been working closely to roll out a number of schemes to render assistance to property owners. These include the Integrated Building Maintenance Assistance Scheme (IBMAS), which provides comprehensive financial and technical support through one-stop service to property owners; the Building Maintenance Grant Scheme for Elderly Owners (BMGSEO), which targets elderly property owners in need; and the Mandatory Building Inspection Subsidy Scheme, which facilitates owners in discharging building inspection responsibility. These schemes have provided support to thousands of buildings and property owners in the past few years. In addition, the Fire Services Department (FSD) and the Buildings Department (BD) will also provide assistance to building owners who have encountered technical difficulties when carrying out fire safety related improvement works.

Assistance provided by URA

15. Building rehabilitation is one of the core businesses of URA. Through different building maintenance support schemes, URA provides financial and technical assistance to private building owners in need to facilitate them in undertaking building maintenance works.

16. From 1 July 2015 onwards, apart from servicing the original geographical areas, URA's IBMAS service has been expanded to cover all Hong Kong, Kowloon and New Territories districts, including those geographical areas previously handled by HKHS. To avoid duplication of resources and to benefit more owners of old buildings that require assistance in building maintenance, IBMAS has been consolidated and streamlined. Details as follows:

- (a) the eligibility criteria of private residential/composite buildings will change from aged 20 years or above to 30 years or above such that resources will be allocated to help those buildings built in or before mid-1980s, which are comparatively less well maintained or managed;
 - (b) the Common Area Repair Works Interest-free Loan will no longer be provided under IBMAS, but the Building Safety Loan Scheme administered by BD and BMGSEO run by HKHS will continue to provide loan to building owners on works in common areas;
 - (c) a new application mechanism which limits annual intake to 250 cases has been established and building safety will be the primary consideration in determining the priority of the cases; and
 - (d) the Green Incentive Subsidy has been introduced under the Common Area Repair Works Subsidy to encourage property owners to use environmentally-friendly building materials and install energy-saving facilities when carrying out building maintenance and repair works, thereby promoting sustainable development. The maximum amount is \$600,000 per OC or \$1,500 per property unit.
17. In addition, URA will provide professional third-party advice

through its maintenance assistance schemes to facilitate the carrying out of building maintenance works, and subsidise OCs for hiring professional consultants/authorized persons to coordinate and supervise such works. They will also appoint independent consultants who would provide professional building maintenance advice and market price estimation of the maintenance projects of participating buildings for owners' reference. Furthermore, URA will continue to strengthen the Building Rehabilitation Information Platform so as to disseminate more rehabilitation information to property owners, for instance through the website of "Building Rehab Info Net" and holding rehabilitation briefings.

To assist owners to comply with the Fire Safety (Buildings) Ordinance

18. The purpose of the Fire Safety (Buildings) Ordinance (Cap. 572) (FS(B)O) is to provide better fire protection for occupants and users of, and visitors to the composite buildings and domestic buildings which were constructed, or the plans of the building works of which were first submitted for approval on or before 1 March 1987.

19. As regards technical support, FSD and BD are aware that some owners may not be able to fully comply with the requirements set out in the Fire Safety Directions (Directions) issued under FS(B)O due to structural or spatial constraints of individual buildings. As such, FSD and BD being the enforcement authorities will, without compromising basic fire safety, adopt a flexible and pragmatic approach in handling individual cases. For example, if the installation of a water tank in a building is subject to a spatial constraint, owners are required to engage authorized persons (i.e. architects, engineers or surveyors registered under the Buildings Ordinance (BO)) or registered structural engineers to conduct an assessment on the structure of the building concerned and make recommendations on fire safety improvements. Having regard to the actual circumstances and information provided by the owners and/or occupiers (including their appointed authorized persons or consultants) for complying with the Directions, the enforcement authorities will enforce certain requirements with reasonable flexibility or consider accepting the alternative proposals put forward by the owners and/or occupiers.

20. In case the owners are concerned that they may not have adequate expertise to assess the works plans, officers of FSD and BD are ready to, on a case-by-case basis, meet with the owners and their appointed qualified persons or fire service installation contractors in order to explain the requirements of fire safety improvement works specified in

the Directions, to discuss the implementation details of the works, as well as to assist them in solving problems that may arise in carrying out the improvement works. To facilitate the owners of old buildings in understanding the requirements of fire service installations and equipment for different types of buildings, FSD has prepared a “Guidebook for the compliance of Fire Safety Directions issued by the Fire Services Department” which has been uploaded to the official website of FSD for public’s reference.

21. In addition, the above-mentioned financial assistance schemes provided by HKHS and URA, including IBMAS and BMGSEO and the Building Safety Loan Scheme administered by BD have incorporated fire safety improvement works into the list of works eligible for subsidies or loan to render financial assistance to property owners in need.

Operation Building Bright

22. As a measure launched amidst the financial tsunami which aimed at “Preserving Jobs”, the Operation Building Bright (OBB) was a special one-off measure rolled out in 2009 to achieve the dual objective of creating more job opportunities for the construction sector as well as improving building safety and the cityspace. The Government does not plan to launch another round of OBB at present.

Stepping up against tender rigging

23. The Government is very concerned about crimes involving building maintenance works. Relevant departments and organisations, including the Independent Commission Against Corruption (ICAC), the Hong Kong Police Force (HKPF), HAD, HKHS and URA, have been working closely together in adopting a multi-pronged approach through proactive measures such as publicity and education, enhancement to procedures, provision of better support for OCs and owners as well as active investigation and enforcement actions to prevent people from conducting unlawful activities in the course of building maintenance works.

HKPF

24. In order to combat crimes relating to building maintenance, HKPF is adopting a three-pronged strategy, namely prevention and education; intelligence gathering; and enforcement. With regard to

prevention and education, the Chief Superintendent of the Organised Crime and Triad Bureau (OCTB) is the chairperson of an interdepartmental working group comprising representatives from URA, HKHS, BD, ICAC and HAD. A publicity campaign on crime prevention namely “RenoSafe Scheme” (the Scheme) has been launched since September 2013.

25. The Scheme offers one-stop service to the public with a view to disseminating useful information and knowledge relating to building renovation and helping them to tackle relevant tender rigging, triad infiltration or other malpractices. It emphasises on the multi-agency approach and the importance of the cooperation among the public. Anti-triad officers at various levels will visit old buildings in the areas within their purview to raise the awareness of residents, OCs and mutual aid committees; to establish a platform for them to seek professional advice; and to strengthen the partnership between HKPF and property owners. The Scheme also encourages the public to report to HKPF when encountering suspicious circumstances. Apart from co-ordinating the resources of all the Police Regions to launch crime prevention publicity campaigns, OCTB also delivers talks from time to time on crime prevention aspect to help those residents, OCs and mutual aid committees in need.

26. Besides, OCTB will create a risk assessment system through data collection for buildings being issued with statutory notice of maintenance. The risk assessment system will divide buildings into three categories of high, medium and low risk, based on factors including number of household, the presence of OCs, subsidy scheme joined, etc. After that, HKPF and other stakeholders could focus their resources on the high priority buildings. Intelligence-led operation will be mounted to stop triad /criminal syndicate’s infiltration in building maintenance.

ICAC

27. ICAC has also been greatly concerned about corruption problems arising from building maintenance and management. As always, the Operations Department will regularly review the trend of related complaints as well as the gravity and complexity of cases for flexible deployment of resources and manpower to cope with investigation needs.

28. In addition, ICAC has published a new edition of the Building

Maintenance Toolkit in December 2013, providing advice on effective corruption prevention measures, checklists on points to note and templates of documents for the reference of OCs and owners. District seminars on corruption risks associated with building maintenance and how to strengthen supervision to prevent corruption were held as well in Hong Kong, Kowloon and New Territories. In 2015, ICAC will continue to enhance OCs and owners' knowledge on anti-corruption laws and corruption prevention measures through different channels such as visits, talks and seminars.

Competition Commission

29. Since the enactment of the Competition Ordinance in 2012, the Government, the Competition Commission and the Judiciary have worked together on the necessary preparatory work in order to pave way for the full implementation of the Competition Ordinance. On 17 July 2015, the Government published the Competition Ordinance (Commencement) (No. 2) Notice 2015 in the Gazette to appoint 14 December 2015 as the date for the full commencement of the Competition Ordinance. Upon the full commencement of the Competition Ordinance, if the Competition Commission has reasonable cause to suspect that anti-competitive conduct has taken place, it may investigate into the case. The Competition Commission took note of the public's concern over alleged bid-rigging cases in the building maintenance industry, and is conducting relevant studies to enhance understanding of the market.

HKHS and URA

30. The HKHS and URA make enhancement to the procedural arrangements under OBB from time to time with a view to eradicating bid-rigging practices. For instance, consultancy firms participating in a tendering exercise are required to submit to OCs concerned working-hour allocation tables of authorized persons and relevant professionals so as to enable OCs to have sufficient information to evaluate whether the fees charged by the firms are reasonable, thereby avoiding the risk of bid-rigging arising from exceptionally low fees charged by the firms. Independent consultants are also engaged by HKHS and URA to provide the participating buildings with an estimate of the maintenance costs to be used as a reference for OCs and owners to assess whether the tender prices are comparable with the market level before they decide on the suitable tender to be selected. Furthermore, HKHS and URA participate in OC meetings and conduct briefings at different stages to highlight

issues that owners would need to pay attention to when preparing for maintenance works and enhance their knowledge about building maintenance.

31. In late 2013, HKHS and URA introduced a new tendering arrangement for building contractors under OBB, by engaging an independent professional accountant to handle administrative work related to tendering exercises for the appointment of building contractors. The arrangement aims to create a more equitable, interference-free and competitive tendering environment. Meanwhile, HKHS and URA are displaying on their websites the information of buildings undergoing tendering exercise under OBB to encourage more contractors to participate in the tendering process.

HAD

32. As regards the provision of better support for OCs and owners, HAD has, through the Building Management Professional Advisory Service Scheme and “AP Easy” Building Maintenance Advisory Service Scheme engaged professional property management companies to form OCs for target buildings, offer professional advice and assist OCs in taking forward maintenance works and follow up on tender matters.

33. On the fronts of publicity and education, HAD has been making concerted efforts with ICAC, HKPF, HKHS and URA to provide OCs and owners with information on corruption and crime prevention, as well as guidelines on the tendering of building maintenance works. The DOs have also encouraged owners to actively take part in works relating to building maintenance, specifically at the initial stage of planning works and appointing consultants, with a view to getting in hold as early as possible the details of the maintenance works and to attend OC meetings to discuss and resolve together their building maintenance works so as to avoid controversies and then give rise to unlawful activities. HAD will also produce a series of TV programmes, distribute theme leaflets and organise talks to further strengthen the public education on building management and maintenance with a view to encouraging owners to actively take part in their OCs and works relating to building maintenance, as well as to appoint consultants and contractors in compliance with BMO.

The suggestion of setting up an “information database of building repair costs”

34. The cost of building maintenance works may be affected by a number of factors, including building design, building condition, the required maintenance items, materials chosen, work skills etc, and varies amongst different buildings. It is not easy for the Government to set up an accurate, detailed and comprehensive database on building repair costs given the complex legal and technical issues involved. However, we note that the University of Hong Kong has launched a maintenance cost estimation website in March this year based on the maintenance cost data obtained from OBB. On the other hand, URA has also shared information on OBB cases, including the contract price of the repair works and other related information, through its website “Building Rehab Info Net” for reference by interested property owners who wish to carry out building maintenance. URA will later upload similar case samples of IBMAS onto the aforementioned website for inspection and reference by the public. The HKHS will also upload relevant case samples of OBB onto their websites for reference by the public.

The suggestion of setting up a “building repair works authority”

35. The proposal touches upon a number of issues, including the amount of time required for undertaking the legislative process, whether the expenditure incurred by the proposed authority will increase the cost of works, how the proposed authority can effectively investigate alleged misconducts of consultants and contractors etc. Since these issues require careful consideration, the proposal cannot be implemented in the near future. We will continue to combat the problem of tender rigging through the abovementioned measures.

The suggestion of setting up a building affairs tribunal

36. There is a suggestion that a building affairs tribunal (BAT), dedicated to handling building management matters, should be established with a view to resolving disputes in a more efficient and less costly manner. However, HAD has reservation over setting up BAT either within or outside the judicial system.

Establishing the BAT within the judicial system

37. Some suggest that reference could be made to the arrangement of the Small Claims Tribunal, where no legal representation is allowed for both sides, so as to reduce processing time and litigation costs. While

the Small Claims Tribunal only deals with claims within the prescribed limit of \$50,000, disputes on building management and maintenance always involve larger amount of money. If the proposed BAT does not allow legal representation, it may not be able to satisfy the proportionality test and may involve constitutional and human right issues.

38. This arrangement may unnecessarily complicate the existing structure of the relevant courts and tribunals. On the other hand, to ensure fairness, the proposed BAT must give parties a proper opportunity to present their evidence and cases. As such, the processing time by the proposed BAT may not be shorter than the existing arrangements in the Lands Tribunal.

Establishing the BAT outside the judicial system

39. Building management cases often involve complicated legal and ownership issues. Even cases involving only a small amount of money can be complicated in nature if ownership of common parts is involved, and the adjudication may have read-across implication to future cases. Thus, it will be very difficult to identify simple cases to be resolved by BAT.

40. Persons who are not satisfied with the BAT's adjudication may appeal to the higher courts. Given the complexity of building management problems, HAD envisages that there will be a lot of appeal cases. This will defeat the purpose of enhancing efficiency and saving resources.

41. Disputed parties are encouraged to resolve their disputes through mediation apart from legal remedies. In fact, since 2009, the Judiciary has required parties to attempt settling their disputes through mediation before hearing in the Lands Tribunal. As mentioned in paragraph 7 , HAD has launched the Pilot Scheme on Free Mediation Service and engaged professional mediators to assist in handling disputes related to building management. Apart from promoting mutual agreement in settlement and harmonic neighborhood relationship, it is also a fast and low-cost method.

Occupational safety for repair and maintenance works on external walls of buildings

42. On building repair and maintenance works, the Labour

Department (LD) will continue to promote work safety through stepping up inspection and enforcement, tackling systemic risks, launching safety accreditation and sponsorship schemes, as well as enhancing publicity and promotional activities. BD also seeks to ensure work safety through requiring owners to engage qualified persons to supervise and carry out the works.

Inspection and Enforcement

43. The LD has stepped up inspection and enforcement since the upsurge of construction projects in 2011/12. Apart from conducting regular site inspections, LD from time to time launches special enforcement operations targeting high-risk processes, including work-at-height (in connection with the repair and maintenance works at external walls of buildings, truss-out scaffolding works, etc.). The LD will take immediate enforcement action without prior warning upon detection of breaches of safety legislation. Regarding repair, maintenance, alteration and addition (RMAA) works, LD had issued 594 suspension notices (SNs) and 613 improvement notices (INs), and initiated 1 037 prosecutions in 2014, representing respective increases of 219%, 28% and 53% when compared with 2011. In the first five months of 2015, LD had issued 163 SNs, 291 INs and initiated 414 prosecutions.

Tackling Systemic Risks

44. The Committee on Construction Site Safety under the Construction Industry Council (CIC) has formed a Task Force to explore ways of enhancing RMAA work safety through building design and stepping up preventive and protective measures for existing buildings. The Task Force comprises members from contractors of the construction industry, the Occupational Safety and Health Council (OSHC), the property management sector, professional bodies of the engineering sector, safety practitioners and relevant government departments (including LD, the Housing Department and BD).

45. The LD has, in collaboration with CIC, formulated guidelines concerning RMAA works at external walls of buildings, to delineate the responsibilities among principal contractors and sub-contractors on planking arrangement for providing working platforms on bamboo scaffolds. This will help enhance the work safety of workers conducting work on bamboo scaffolds at the external wall. The CIC published the new guidelines in May 2014, and LD had accordingly updated the code

of practice concerning bamboo scaffolding safety in June 2014. The LD will take into account the aforesaid guidelines and the code of practice when enforcing safety legislation relating to the use of bamboo scaffolds for work-at-height.

Safety Accreditation and Sponsorship Scheme

46. The LD has, in collaboration with OSHC, launched a number of safety accreditation and sponsorship schemes in recent years with a view to encouraging small-and-medium sized contractors to adopt safe working methods. In June 2012, LD and OSHC jointly launched the “OSH Star Enterprise Safety Accreditation Scheme” for the RMAA industry. The Scheme covers provision of safety training, subsidies for the purchase of fall arresting devices and the conduct of safety audits for small-and-medium sized RMAA contractors, and offer of premium discounts up to 50% to those contractors accredited under the Scheme through collaboration with the insurance sector. As at end June 2015, 30 small and-medium sized contractors were accredited. The OSHC is processing a few dozens of applications and will later step up promotion of the Scheme to target works proponents.

47. Taking into account the large number of accidents arising from improper use of ladders by construction workers, LD, in collaboration with OSHC, launched the “Mobile Working Platform Sponsorship Scheme” in 2013 to encourage small-and-medium sized contractors to purchase mobile working platforms so as to enhance work-at-height safety in the industry. As at end June 2015, OSHC approved more than 2 000 applications involving over 23 000 workers. A new sponsorship scheme entitled “Light-Duty Working Platform Sponsorship Scheme” was launched in April this year to subsidise small-and-medium sized contractors to purchase working platforms for carrying out light duty work at restrictive workplaces, including step platforms and hop-up platforms, which are particularly suitable for use in certain special working environments (e.g. at restrictive space) so as to enhance the work safety of more workers. As at end June 2015, OSHC had approved more than 500 applications involving around 6 000 workers. The LD will also explore with the construction industry ways to promote the culture of safe working above ground through phasing out the use of ladders on construction and renovation sites.

Publicity and Promotion

48. To raise the industry's awareness of the systemic safety problems and the proper implementation of preventive measures, LD from time to time organises thematic large-scale promotion and educational programmes. With regard to work-at-height safety, LD, in collaboration with CIC, organised the "RMAA Safety Conference" in February 2014. The LD, in collaboration with OSHC, had also organised the "Safety Seminar on Falsework Safety" and the "Work-at-height Safety Forum cum Safety Equipment Exhibition" in March and April 2015 respectively, with a view to enhancing the safety awareness of the industry.

49. To enhance the safety awareness of workers undertaking RMAA works, LD has been focusing on the publicity work on work-at-height, scaffolding safety as well as the proper use of personal protective equipment. Such activities include TV/Radio broadcasts and display of publicity banners and posters in various districts across the territory. LD also, in collaboration with the property management sector, produced a set of work safety guidelines on truss-out scaffolding works in 2013 and issued a revised version in 2014 to enhance the safety of truss-out scaffolding works. The guidelines have been disseminated to residents and contractors engaged by the participating companies in undertaking works at those buildings.

Engaging qualified building professionals and registered contractors to ensure work safety

50. To ensure that the relevant works will meet safety standards, BD requires property owners to engage qualified building professionals and registered contractors under BO to undertake building maintenance works.

51. When building owners carry out repair and maintenance works on the external walls of buildings according to the requirements of advisory letters, statutory orders or notices issued by BD, BD will advise or request, as appropriate, the owners to appoint a qualified building professional, including an authorized person and a registered structural engineer (if necessary) to supervise the works. BD will also suggest and specify the necessary works safety measures, including working platforms, catch fans, temporary falseworks, scaffolds, protection screens and covered walkways. Depending on the nature of works, the authorized person and the registered structural engineer may be required to submit a Supervision Plan to BD under BO. Furthermore, building owners are required to appoint a registered contractor to carry out such works. The BO imposes statutory duty on the aforesaid qualified

building professionals and registered contractors, requiring them to comply with the provisions of BO and the related regulations. Qualified building professionals and registered contractors shall supervise the works to ensure that they are carried out and completed in a safe manner, and that the required standards are met. The persons concerned should also adopt safe works practice formulated by relevant government departments. Regarding works safety, BD has published codes of practice, practice notes, guidelines and pamphlets, etc. to require and remind qualified building professionals, registered contractors and building owners that adequate and appropriate site safety measures must be taken when carrying out repair and maintenance works on the external walls of buildings.

Building designs that facilitate maintenance and repair works at building exterior

52. BO is intended to set structural, fire safety and health standards for building designs and construction of private buildings. There is no provision in BO requiring access and facilities to facilitate repair and maintenance works on the exterior of buildings. Nevertheless, BD has issued Practice Notes for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers (PNAP)¹ and guidelines to provide technical guidance on the facilities for external inspection and maintenance of buildings, and encourages the building industry to follow them.

Safety of signboards

53. The Government attaches much importance to the safety issue of signboards and has taken appropriate enforcement actions against unauthorised signboards. According to the current enforcement policy, BD implements the Signboard Control System (SBCS) and its major features are as follows:

- (a) BD will take immediate enforcement action against newly erected unauthorised signboards or those under construction. At the same time, it will institute large scale clearance operation to remove existing unauthorised signboard;

¹ The PNAP concerned are PNAP ADV-11 (regarding the safe working load of suspended working platforms) and PNAP ADV-14 (regarding facilities for external inspection and maintenance of buildings).

- (b) for dangerous or abandoned signboards, BD will, according to Section 105(1) of the Public Health and Municipal Regulations, serve Dangerous Sign Removal Notice to the signboard owner requiring their removal. In emergency situation, BD will take prompt action to remove dangerous signboards so as to eradicate immediate or potential danger posed to the public and recover the cost from the signboard owners subsequently; and
- (c) for existing unauthorised signboards which are relatively small in scale and pose less potential risk, BD has implemented the Validation Scheme for Unauthorised Signboards since September 2013. Under the Scheme, the existing signboards may be retained for continued use after inspection, strengthening (if required) and certification of their structural safety by the prescribed building professionals and/or prescribed registered contractors. The validation for the unauthorised signboards will be subject to a 5-year validity period after which the signboard owner should either make fresh validation submissions or remove the signboards. The legal status of the unauthorised signboards that have been validated remains unchanged and they are still unauthorised signboards. Where a validated signboard becomes dangerous due to lack of proper maintenance, BD may take prompt enforcement action and require the signboard owner to remove the signboard.

54. In 2015, BD will continue to take enforcement action against unauthorised signboards, including removing/repairing dangerous signboards (regardless of their sizes). It is estimated that 600 removal orders will be issued, 800 unauthorised signboards will be removed/validated and 1 400 dangerous/abandoned signboards will be removed/repared.

55. On the other hand, erecting signboard on the external wall of a building involves property right and building management issues. Under BMO, owners of a building are responsible for the management of the common parts of the building under civil law, and the Deed of Mutual Covenant (DMC) demarcates the rights, benefits and responsibilities, etc. amongst the property owners. The enforcement of a DMC rests with the parties to the contract and the Government is not a party to the contract.

56. For anyone who intends to erect or hang a signboard on the external wall of a building, apart from obtaining the prior approval of the plan and consent to the commencement of works from BD or conducting the works under the Minor Works Control System (MWCS) requirements, he shall also ensure that the works will not contravene the requirements under other relevant provisions, including DMC of the building. He must carefully peruse the relevant land lease and DMC to ensure that there will not be any contravention of the relevant provisions. Any dispute should be resolved according to the provisions in BMO and DMC.

57. Regarding the erection of signboards in the common parts of a building, BD has made the following administrative arrangements to remind the building professionals concerned to obtain consent from the owners, and to notify the building owners or OCs in a timely manner to enable them to follow up related matters with the person intending to erect the signboard:

- (a) the BD has in the practice notes concerning erection of signboards reminded related parties to obtain consent from the owners concerned or OCs for the erection of signboards having regard to the actual circumstances;
- (b) if the signboard to be erected is situated at or will substantially affect the common parts of a building, BD, in approving the plan, will notify OC, the management committee or the management company of the building concerned; and
- (c) if the signboard to be erected is minor works under MWCS, BD has reminded the person who arranges the erection of the signboard, the prescribed building professionals, the prescribed registered contractors, etc. through the “Matters to Note” page of the specified form for notification of minor works that if the works involve the common parts of a building, they should pay attention to the relevant conditions in DMC of the building, and consult the co-owners, OC and the property management company concerned before commencement of the works.

58. When BD receives a minor works submission concerning a

signboard, it will notify OC or the property management company of the building concerned at the same time as it issues the acknowledgement letter for the submission. In the acknowledgement letter, BD will remind the prescribed building professionals and prescribed registered contractors that if the signboard is erected at the exterior or other common parts of the building, they should liaise with the co-owners of the building, OC, the management company or the owner concerned regarding the right to use the common parts, and to observe all obligations as stipulated in DMC of the building, including but not limited to the arrangement of third party liability insurance. Otherwise, they may be in breach of DMC of the building and liable to civil proceedings and bearing of civil liabilities.

59. Furthermore, in order to enhance the monitoring of the persons who are responsible for the signboards, the Building (Minor Works) Regulation stipulates that, where erection of signboards is involved, the prescribed form submitted to BD must include the information regarding for whom the signboard is erected. The information will facilitate BD's future control and enforcement works, reduce the possibility of the need to handle abandoned signboards, enhance OCs' building management works and reduce the risk for OCs to bear the ultimate liability of signboards.

Development Bureau

Commercial and Economic Development Bureau

Security Bureau

Buildings Department

Fire Services Department

Home Affairs Department

Hong Kong Police Force

Labour Department

Independent Commission Against Corruption

August 2015

**Motion on
“Stepping up regulation on the repair
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moved by Hon Tony TSE
at the Council meeting of 10 June 2015**

**Motion as amended by Hon KWOK Wai-keung, Hon CHAN Hak-kan and
Hon WU Chi-wai**

That the housing problem has always been of major concern to society; at present, the inadequate supply of developable land and newly constructed residential housing in Hong Kong has subjected many people to heavy housing pressure, and the situation is expected to persist in the near future; in addition to the need to expeditiously increase the supply of land and residential housing by the Government, developers and other public or non-profit-making organizations, the Government should encourage people to step up the repair, maintenance and management of buildings to prolong their useful life; the various building maintenance programmes introduced by the Government in recent years, including the Mandatory Building Inspection Scheme, have led to a significant increase in the amount of building repair and maintenance works; yet, the designs of quite a number of buildings have not taken into account the feasibility and safety of future building repair and maintenance works, which directly increase the risk of industrial accidents, and the varying standards of building repair and maintenance service providers at present have rendered some property owners suffering monetary and other unnecessary losses; in this connection, this Council urges the Government to step up regulation on the repair and maintenance works of private buildings, including adopting effective measures to provide appropriate assistance to property owners, owners' corporations and the building repair and maintenance sector, so that the public can receive professional building repair and maintenance services which are of good quality and value-for-money; the Government should also face up to the issue of erecting safety installations for repair and maintenance works on external walls of buildings, so as to strengthen protection for construction workers' occupational safety; in order to encourage and support people to step up the repair, maintenance and management of buildings, the Government should introduce the following specific measures:

- (1) to create a commissioner for management of old buildings to co-ordinate the repair, maintenance and management of private buildings;

- (2) to actively assist owners of old buildings in organizing owners' corporations or hiring management companies to resolve building management and repair problems;
- (3) to set up an 'information database of building repair costs' and expeditiously implement the Competition Ordinance, so as to combat bid-rigging activities on building repair and maintenance;
- (4) to provide resources for the Hong Kong Housing Society and the Urban Renewal Authority to enhance their technical and legal support services on building repair for property owners or owners' corporations;
- (5) to further streamline the application procedure for the Integrated Building Maintenance Assistance Scheme;
- (6) to set up a 'building affairs tribunal' to resolve the existing problems of lengthy time required for handling building management disputes and expensive legal costs, etc.;
- (7) to provide financial and technical supports for property owners who have practical difficulties in compliance with the Fire Safety (Buildings) Ordinance to have fire service equipment and installations such as water tanks and hose reel systems, etc., in their buildings;
- (8) to allocate more resources to remove abandoned signboards on external walls of buildings and combat acts of overhanging signboards from external walls of buildings without prior permission; and
- (9) to launch a third round of the Operation Building Bright;
- (10) to step up law enforcement to combat bid-rigging syndicates;
- (11) to provide small property owners with appropriate and professional support;
- (12) to enhance public education to give publicity to the perils of bid-rigging; and
- (13) to set up a 'building repair works authority' to regulate the service quality of building repair and maintenance service providers.