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20 May 2015

Public Accounts Committee
 Legislative Council
 Legislative Council Complex
 1 Legislative Council Road
 Central, Hong Kong
 (Attn: Mr. Anthony CHU)

Urgent by fax 2543 9197

Dear Mr. CHU,

**Public Accounts Committee
 Consideration of Chapter 1 of the Director of Audit's Report No.64
 Buildings Department's actions on unauthorised building works**

I refer to your letter dated 6 May 2015 to the Director of Buildings. We set out below the requested information.

(a) Manpower and duties of the three divisions and one section of the Buildings Department ("BD") responsible for handling unauthorised building works ("UBWs") cases and implementing the building safety and maintenance enforcement programme on existing buildings

2. The respective duties of the three Divisions and one Section in the BD responsible for handling UBWs cases and implementing the building safety and maintenance enforcement programme on existing buildings are set out at Annex A. Their manpower and key performance indicators are listed at Annex B.

(b)&(c) Breakdown of BD's manpower or expenditure involved solely for the enforcement actions on UBWs.

3. Threat to building safety would multiply if the existence of UBWs coincides with a lack of proper building repair and maintenance. For instance, UBWs-in-progress may cause cracks to the floor underneath; and UBWs may obstruct the access required for carrying out building repair. A sub-divided flat,
***Note by Clerk, PAC: Please see Appendices 9 and 10 of this Report for Annexes A and B respectively.**

against which enforcement actions are taken, may invariably involve UBWs and fire and/or structural safety issues. The flat below the sub-divided flats may suffer from concrete spalling or water seepage which is a typical disrepair or hygiene issue vis-a-vis a UBW problem. UBWs often lead to other kinds of building safety issues at the same time.

4. In view of the above and to avoid causing confusion to building owners for having to work with different divisions/sections of BD, BD has adopted a “building co-ordinators” (BC) approach since 2011 whereby the same team of officers are designated to handle all general building safety problems, public reports and enforcement against building dilapidation and different types of UBWs for the same building. This approach has improved efficiency in BD’s day-to-day operation as the same team could gather all the information obtained and would have a better grasp of the overall condition of a building under its purview. It also provides greater convenience to building owners as they only have to liaise with one single contact point in BD on all the building safety issues/complaints concerning their buildings. The Development Bureau briefed the Legislative Council Panel on Development on, among other matters, the adoption of the BC approach at its meeting on 20 June 2011 (CB(1)2487/10-11(01) and R64/1/INFO5) and Members were generally content with the approach.

5. Furthermore, in response to each major building safety incident, BD has been proactively redeploying its staff to launch *ad hoc* special operations (e.g. inspection of over 4 000 buildings aged 50 years or above after the Ma Tau Wai building collapse incident in 2010; and Large-scale Operations (LSOs) targeted at sub-divided flats used for domestic purpose after the fire at Fa Yuen Street on-street hawker stalls in 2011) in order to identify unforeseen building safety risks and take appropriate follow-up actions. Also, BD officers may be called upon to attend to emergency reports related to building safety issues in their respective districts.

6. Under the BC approach and given the various *ad hoc* operations, it would not be possible for BD to provide a breakdown or an estimate of resources deployed solely for the enforcement actions on UBWs.

(d) *Not attached*
Date of each photo in ~~GEN 18 and GEN 19~~;

7. The dates of the photos taken in ~~GEN 18 and GEN 19~~ are marked on the revised ~~GEN 18 and GEN 19~~ attached.
Not attached

(e) Not classifying UBWs into actionable and non-actionable in the 2011 Stock Taking Exercise (STE);

8. As explained by the Secretary for Development in an oral reply to a LegCo question at the Council sitting on 8 June 2011, the 2011 STE was to enable BD to enhance its database with records on the types and number of UBWs on the exterior of private buildings, in order for BD to make appropriate arrangements for prioritising its enforcement actions and conducting various LSOs. The 2011 STE has been completed and the report of the 2011 STE has been provided to the Public Accounts Committee (PAC) (~~GEN 17~~).
Not attached

9. Beside the survey reports of the types and number of suspected UBWs, the database enhanced after the 2011 STE now housed within the Building Condition Information System (BCIS) also contains a repository of some 600 000 digital photo records taken during the STE, which cover all elevations of the external walls and roofs on each of the 41 000 private buildings. Such data provides very useful references to BD colleagues and greatly facilitates BD's day-to-day handling of over 40 000 reports on suspected UBWs per annum.

10. The purpose of the 2011 STE is not to ascertain whether the suspected UBWs found were actionable or not. Ascertaining whether certain UBWs are actionable for the purpose of initiating enforcement or prosecution actions

requires much more precise measurement and careful comparison against other BD's internal records (*e.g.* the approved plans, minor works submissions, etc.) than the visual inspections required of the consultants under the limited time and resources of the 2011 STE. For reference, the average cost for identifying and establishing actionable UBWs in BD's outsourced consultancy for typical LSOs is about \$5,000 for one building whereas the cost of inspecting a building under the 2011 STE is only about \$700. If all the 41 000 buildings covered by the 2011 STE were required to be inspected to the same level of details as the typical LSOs for the purpose of categorising the UBWs spotted into actionable and non-actionable UBWs, the time and cost required for the task would be enormous. We hope PAC will understand and accept the fact that the 2011 STE was for the purpose mentioned in paragraph 8 above and was not intended to provide the level of details required for taking out enforcement and prosecution actions using BD's statutory powers which should be exercised only on the basis of very detailed and comprehensive information on the UBWs concerned.

(f) *The incident of falling concrete slab in North Point in March 2015*

11. The consultants in the 2011 STE were required to report to BD on any imminently dangerous situations identified during the site inspections for emergency action if required. The subject building at North Point, namely Chu Kee Building, was covered under the 2011 STE. According to the proforma submitted by the consultant for that building, there was no report of building safety issues identified as warranting any emergency action during the visual inspection from the outside. The investigation on the cause of the incident that occurred on 11 March 2015 is still ongoing.

(g) *Not setting target for removing UBWs since 2011*

12. As mentioned in the paper to the Legislative Council Panel on Development in June 2011 entitled "Control of Unauthorised Building Works

under the Buildings Ordinance (Cap. 123)” (CB(1)2487/10-11(01) and R64/1/INFO5), the Government conducted a ten-year UBWs Removal Programme from April 2001 to March 2011. By the end of March 2011, the targets of the ten-year operation had been generally met and most of the high-risk UBWs had been removed. However, the problem of UBWs remains an extensive and complex issue. It is not practicable for BD to aim at taking immediate enforcement action against all UBWs that exist throughout the territory within a short timeframe. We need sustained, ongoing efforts to tackle the problem of UBWs in Hong Kong. The problem would not go away completely until and unless all building owners become highly conscious of and honour their ultimate responsibility to free their properties of UBWs. Against this background, we have adopted a multi-pronged approach to tackle UBWs and enhance building safety, covering legislation, enforcement, support and assistance to building owners as well as publicity and public education. We will continue our efforts in these regards. In particular, on the enforcement front, BD will continue to adopt a risk-based approach for issuing removal orders against actionable UBWs. BD will take immediate enforcement action against those UBWs involving works-in-progress and dangerous structures. As for the rest, BD will continue to respond to reports and conduct LSOs to clear the UBWs on building basis. BD will also continue to set annual targets and indicators for its enforcement action having regard to its manpower situation.

(h) Publishing the breakdown of UBWs removed each year into actionable and non-actionable UBWs

13. It is BD’s practice to issue removal orders against UBWs which are actionable under the prevailing enforcement policy (with or without preceding non-statutory advisory letters), and issue warning notices or non-statutory advisory letters against non-actionable UBWs. As borne out by past statistics, the vast majority of UBWs removed were subject to BD’s removal orders¹, and

¹ For instance, 91% of the 22 866 UBWs removed in 2014 were subject to removal orders.

hence were actionable UBWs. The other UBWs removed may fall under any of the following categories:

- (i) UBWs issued with a warning notice, which were non-actionable UBWs;
- (ii) UBWs issued with a non-statutory advisory letter, which could be actionable (as advisory letters may be issued before the issue of removal orders) or non-actionable; and
- (iii) UBWs, which could be actionable or non-actionable², that were not subject to any warning notice or advisory letter but were removed voluntarily.

14. At present, BD's BCIS does not capture information as to whether UBWs removed under categories (ii) and (iii) above are actionable or not, and hence BD is not able to provide a breakdown of the UBWs removed in a year categorised into actionable and non-actionable UBWs. In the light of PAC Members' concern, BD has reviewed the present arrangement and decided to build in additional functionality to the BCIS through its current revamp such that the above breakdown can be provided. BD will publish the breakdown on its website and in its COR when the required work is completed.

(i) *Breakdown of identified but not yet removed UBWs by "actionable" status & Assessment of the scale of the UBW problem and resources required to handle all actionable UBWs:*

15. The scope of actionable UBWs depends on the prevailing enforcement policy which is revised from time to time to meet the needs of the circumstances. Moreover, UBWs which are non-actionable may later on become dangerous with time and therefore actionable. On the other hand, building owners may remove UBWs voluntarily before BD's enforcement

² About 5%, 2% and 2% of the UBWs removed in 2014 fall under categories (i), (ii) and (iii) respectively.

action. For example, a new flat owner may clear all the UBWs when renovating his flat before moving in. Another example is an owners' committee deciding to remove all UBWs on the external walls and common area of the residential development as the whole development undergoes a major renovation. Given these variables and that the status of UBWs keep on changing, BD is unable to compile a breakdown of identified but not yet removed UBWs by "actionable" status. In addition, we would like to point out that the number of removal orders issued and UBWs rectified may not be commensurate with efforts spent, e.g. the removal of metal gates and supporting frames for air conditioning units is much easier than removal of rooftop structures and irregularities of subdivided flats which would involve dispossession.

16. As mentioned in paragraph 12 above and in the paper to the Legislative Council Panel on Development in June 2011 entitled "Control of Unauthorised Building Works under the Buildings Ordinance (Cap. 123)" (CB(1)2487/10-11(01) and R64/1/INFO5), the Government conducted a ten-year UBWs Removal Programme from April 2001 to March 2011. By the end of March 2011, the targets of the ten-year operation had been generally met and most of the high-risk UBWs had been removed. However, the problem of UBWs remains extensive and complex. It is not practicable for BD to aim at taking immediate enforcement action against all UBWs that exist throughout the territory within a short timeframe. We need sustained, ongoing efforts in tackling the problem of UBWs in Hong Kong until and unless all building owners become highly conscious of their ultimate responsibility to free their properties from UBWs and act accordingly. Against this background, we have adopted a multi-pronged approach to tackle UBWs and enhance building safety, covering legislation, enforcement, support and assistance to building owners as well as publicity and public education. We will continue our efforts in these regards. In particular, on the enforcement front, BD will continue to adopt a risk-oriented approach for issuing removal orders against the actionable UBWs. BD would take immediate enforcement action against those UBWs involving

work-in-progress and dangerous structures. As for the rest, BD will continue to respond to reports and conduct Large Scale Operations to clear the UBWs on building basis. BD will continue to set annual targets and indicators for its enforcement action having taken account its manpower situation.

(j) Actions taken by BD on non-compliant registered minor works contractors from 2011 to 2014

17. At the early stage of implementation of the Minor Works Control System (MWCS) since 31 December 2010, a communicative approach was taken to deal with minor non-compliance by registered professionals or contractors. BD would proactively contact the practitioners to explain BD's requirements and understand the difficulties they faced in complying with such requirements, with a view to helping them to resolve the issues.

18. If irregularities were found in internal audit cases, BD would call or issue advisory letters to the professionals or contractors concerned to inform them of such irregularities in the minor works submissions and to request them to make rectifications. They generally responded positively to the telephone calls and advisory letters, resulting in immediate rectification of the irregularities concerned. Common irregularities found would also be discussed in the Technical Committee on MWCS and *ad hoc* meetings with trade organisations with a view to arriving at mutually acceptable means to satisfy BD's requirements. These practical alternatives would be promulgated to practitioners through seminars, briefings and guidelines.

19. In fact, a series of publicity measures were taken from 2011 to 2014 to raise the awareness of the practitioners, trade unions and general public on the MWCS submission requirements to encourage greater adoption of this new control system and reduce the likelihood of non-compliance. These publicity measures include:

- (a) publishing relevant guidelines and uploading the same onto the BD's website;
- (b) broadcasting Announcement in the Public Interest on TV, radio, buses and trains;
- (c) setting up the Technical Committee on MWCS as a forum for representatives of relevant trade organisations to discuss technical and implementation issues relating to the duties and practice of the prescribed professionals and contractors;
- (d) conducting briefings/seminars for the industry and public (over 110 briefings/seminars involving over 12 300 participants);
- (e) launching a mobile application for the MWCS including the validation schemes;
- (f) handling formal enquiries (over 21 000 enquiries); and
- (g) organising the Building Safety Week in March 2015 to raise public awareness on building safety including the MWCS (with over 13 000 participants).

20. Since 2014, BD has stepped up its enforcement efforts against non-compliant registered professionals or contractors, such as issuing about 180 warning letters and initiating about 40 prosecutions in respect of irreversible, non-conforming minor works submissions. In addition, BD will consider initiating disciplinary proceedings against the registered professionals or contractors under the BO, and referring the cases to the relevant professional bodies for follow-up as appropriate.

(k) Measures taken/to be taken by BD to improve the response rate of the Household Minor Works as well as the Validation Scheme for Unauthorised Signboards

21. The BD has taken the following publicity measures to improve the response rate of the Household Minor Works Validation Scheme (HMWVS) and the Validation Scheme for Unauthorised Signboards (VSUS):

- (a) publishing a booklet introducing the VSUS and a pamphlet on the HMWVS;
- (b) uploading relevant guidelines onto the BD's website;
- (c) broadcasting Announcement in the Public Interest on TV, radio, buses and trains;
- (d) conducting briefings to the industry and public;
- (e) launching a mobile application for the MWCS including the validation schemes;
- (f) introducing the VSUS to food business operators during their licensing applications; and
- (g) organising the Building Safety Week in March 2015 to raise public awareness on building safety including the validation schemes (with over 13 000 participants).

BD will continue its publicity efforts to promote the HMWVS and VSUS as and when necessary.

22. The implementation of the MWCS presents an option for owners to tackle their minor UBWs, namely (a) by removing and re-erecting the minor works in accordance with the simplified procedures under the MWCS; or (b) through validation under HMWVS or VSUS.

23. It is worth noting that, with the introduction of the VSUS, the number of minor works submissions associated with signboards received by BD increased significantly from around 90 per month to an average of 380 per month. In 2014, more than 5 000 minor works submissions involving signboards and nearly 11 000 associated with household minor works were received by BD. This shows that owners may prefer the option of removal and re-erection to the validation option.

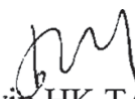
(l) Stepping up enforcement actions against UBWs with a view to achieving a greater deterrent effect so that more owners of unauthorized signboards or households with minor works would submit their applications under the validation schemes in (k) above

24. To encourage owners to either remove and re-erect or validate their minor UBWs promptly, BD is taking progressive enforcement actions, starting with unauthorised signboards. To this end, a pilot LSO on a section of Fuk Wing Street, Sham Shui Po was launched in May 2014. Removal orders were issued against unauthorised signboards not joining or ineligible for joining the validation scheme.

25. As a conciliatory approach, signboard owners were allowed to validate their signboards as a means of compliance with the removal orders. Whilst there is good progress of compliance with the removal orders, only 16% of all signboards issued with removal orders under this LSO were validated under the VSUS, and more owners chose to remove and re-erect their signboards. This again shows that the owners prefer the option of removal and re-erection to the validation option. In 2015, the LSO will be extended to five target streets in different districts, namely Central and Western, Wanchai, Sham Shui Po, Yau Tsim Mong and Kowloon City.

26. Should you have any queries, please contact the undersigned at telephone no. 2626 1628.

Yours sincerely,



(Edwin HK TANG)
for Director of Buildings

c.c. Secretary for Development - Attn: Mr Arsene Yiu (fax no. 2147 3691)
Secretary for Financial Services and the Treasury (fax no. 2147 5239)
Director of Audit (fax. No. 2583 9063)