

A. Introduction

The Audit Commission ("Audit") conducted a review of the actions of the Buildings Department ("BD") on unauthorized building works ("UBWs").

Background

2. According to BD, there are currently about 41 000 private buildings in Hong Kong. In a stock-taking exercise conducted by BD from May 2011 to December 2012, BD consultants found some 2 290 000 suspected UBWs, comprising 1 870 000 household minor works, 120 000 signboards and 300 000 other UBWs¹.

Government policies on UBWs

3. With the exception of minor works carried out under BD's Minor Works Control System ("MWCS") and exempted works², building works without BD's approval and consent are UBWs.

4. Since 1975, with a view to removing risk to public safety and curbing UBWs within the resources available, the Administration has adopted a policy under which enforcement actions would be taken on certain types of UBWs (known as "actionable UBWs") and those on the remaining UBWs (known as "non-actionable UBWs") would be deferred. Under the UBW policy adopted by the Administration in 1988, actionable UBWs mainly comprised:

- UBWs constituting obvious or imminent danger to life or property; and
- new UBWs, irrespective of the date of completion of the buildings concerned.

1 Please refer to paragraph 2.11 of the Audit Report for details.

2 According to Note 1 of the Audit Report, minor works are additions or alterations to buildings carried out under MWCS implemented since December 2010. Examples include erection of drying racks and supporting structures for air-conditioners. Exempted works are building works in a building not affecting the building structures such as removal of non-structural partition walls. Please refer to paragraph 2.25 of the Audit Report for details of MWCS.

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5. In 2001, the Administration revised the enforcement policy, under which actionable UBWs, in addition to the two types stated in paragraph 4 above, were expanded to include the following works:

- UBWs erected in or on buildings, on rooftops and podiums, and in yards and lanes constituting a serious hazard or a serious environmental nuisance;
- major individual UBWs;
- UBWs erected in or on individual buildings having extensive UBWs;
- UBWs identified in buildings or groups of buildings targeted for large-scale operations ("LSOs") or maintenance programmes; and
- unauthorized alterations to or works in environmentally friendly features of a building for which exemption from calculation of gross floor area has been granted.

6. With effect from April 2011, the seven types of actionable UBWs stated in paragraphs 4 and 5 above have been expanded to include all UBWs erected on rooftops and podiums, and in yards and lanes of buildings even where these UBWs might not pose a serious hazard or environmental nuisance (known as "rooftop-podium-lane UBWs").

BD's actions in handling UBWs

7. For an actionable UBW, BD may issue a removal order requiring the owner concerned to remove it within a specified period (normally 60 days) and register the order at the Land Registry ("LR"). If the required rectification works have not been carried out within the specified period stated under the removal order, BD may carry out or cause to be carried out the removal works, or instigate prosecution actions against the building owners. For a non-actionable UBW, BD may issue a warning notice notifying the owner concerned to remove the UBW, and the notice shall be registered at LR if the owner has not complied with it within the specified period.

The Committee's Report

8. The Committee's Report sets out the evidence gathered from witnesses. The Report is divided into the following parts:

- Introduction (Part A) (paragraphs 1 to 11);
- Implementation of Government policies on unauthorized building works (Part B) (paragraphs 12 to 43);
- Handling of public reports (Part C) (paragraphs 44 to 56);
- Actions through large-scale operations (Part D) (paragraphs 57 to 64);
- Follow-up actions on removal orders (Part E) (paragraphs 65 to 80);
- System for supporting enforcement actions (Part F) (paragraphs 81 to 82);
- Way forward (Part G) (paragraphs 83 to 91); and
- Conclusions and recommendations (Part H) (paragraphs 92 to 94).

Public hearings

9. The Committee held two public hearings on 5 and 26 May 2015 to receive evidence on the findings and observations of the Director of Audit's Report ("Audit Report").

Opening statement by Secretary for Development

10. **Mr Paul CHAN Mo-po, Secretary for Development**, made an opening statement at the beginning of the Committee's first public hearing held on 5 May 2015, the summary of which is as follows:

- building safety problems could not be sustainably and effectively resolved by enforcement actions alone. Owners had to abide by the law and observe their legal obligations;

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- since 2010, the Administration had been taking a multi-pronged approach to enhance building safety. The Administration put the statutory Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme into full implementation in June 2012 to tackle the building dilapidation problem at its root. The scope of the Building (Minor Works)(Amendment) Regulation 2012 was expanded to cover building works associated with sub-divided flats ("SDFs") to assure their quality;
- the Administration joined hands with the Hong Kong Housing Society and the Urban Renewal Authority to provide owners with financial and technical support on building maintenance, such as the "Integrated Building Maintenance Assistance Scheme" offering building owners "one-stop" support and the Mandatory Building Inspection Subsidy Scheme;
- it was necessary to develop a culture in Hong Kong that attached importance to building safety through publicity and public education as well as conducting a targeted promotion strategy for building owners, building professionals, contractors and property managers and the younger generation;
- in view of the increasing workload following the Ma Tau Wai building collapse incident, BD must take a "risk-oriented" approach to prioritize its actions. BD had taken strenuous efforts in taking enforcement actions against UBWs, as in the past five years BD had dealt with nearly 200 000 reports of UBWs, issued 80 000 removal orders, 5 000 warning notices and 20 000 advisory letters, as well as initiated over 12 000 prosecutions against non-compliant owners; and
- the Administration accepted recommendations in the Audit Report and would take measures to implement these recommendations within practical limits.

The full text of Secretary for Development's opening statement is in *Appendix 5*.

Opening statement by Director of Buildings

11. **Mr HUI Siu-wai, Director of Buildings**, made an opening statement at the beginning of the Committee's first public hearing held on 5 May 2015, the summary of which is as follows:

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- with the large number of UBWs, BD was facing a great challenge and must prioritize its work to deal with the removal of UBWs in an orderly manner;
- there were a number of changes on the policy on UBWs since it was first adopted by the Administration 40 years ago. Out of all types of actionable UBWs, UBWs constituting obvious or imminent danger to life or property had all along been categorized as actionable UBWs which required enforcement actions since the introduction of UBW policy;
- BD had been conducting various LSOs to clear actionable UBWs found on targeted buildings in one go;
- BD would continue to step up efforts to eradicate SDFs in industrial buildings and take enforcement actions against building and fire-safety irregularities of SDFs in residential and composite buildings; and
- over the years, BD had taken various initiatives, such as MWCS, the Mandatory Building Inspection Scheme and the Mandatory Window Inspection Scheme, to enhance building safety. BD had also provided various types of assistance and support for owners of UBWs, and had adopted various publicity measures to promote building safety.

The PowerPoint materials used by Director of Buildings during the delivery of his opening statement are in *Appendix 6*.

B. Implementation of Government policies on unauthorized building works

12. The Committee noted from paragraph 2.6 of the Audit Report that, with effect from April 2011, the seven types of actionable UBWs were extended to include all rooftop-podium-lane UBWs even where these UBWs might not pose a serious hazard or environmental nuisance. The Committee enquired about:

- the manpower increase in implementing this new policy;
- the expenditure allocated in implementing this new policy;
- the number of actionable UBWs identified and removed in each year from 2008 to 2010; and

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- the number of actionable UBWs identified and removed in each year from 2011 to 2014.

13. **Director of Buildings** stated in his letter dated 15 June 2015 (in *Appendix 7*) that:

- BD's revised enforcement policy on UBWs with effect from April 2011 was an integral part of the Administration's multi-pronged approach to enhance building safety comprising legislation, enforcement, assistance to building owners, and publicity and public education. The initiatives complemented one another to optimize the use of available resources and maximize the synergy amongst the stakeholders concerned, with the objective of driving building owners to honour their due responsibility to properly maintain and repair their buildings, remove UBWs and not to carry out UBWs;
- as shown in paragraph 2.7(a) and Table 1 of the Audit Report, there were successive increases since 2010-2011 in both the manpower and expenditure in BD for various building safety enhancements and other initiatives, including implementation of the Mandatory Building and Window Inspection Scheme, introduction of MWCS, carrying out LSOs against UBWs, building dilapidation and SDFs, manning the joint office on water seepage, expediting processing of new building plans, etc.;
- from 2010-2011 to 2014-2015, the establishment of civil servants and the number of non-civil service contract ("NCSC") posts in BD, against their actual strength at the end of the respective financial year, were as follows:

	Establishment of civil servants	Strength as at 31 March	No. of NCSC posts approved	No. of NCSC posts filled as at 31 March
2010-2011	996	973	807	459
2011-2012	1 173	1 144	511	454
2012-2013	1 232	1 197	523	443
2013-2014	1 322	1 294	528	397
2014-2015	1 537	1 513	368	263

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- the annual financial provisions for BD, as set out in its Controlling Officer's Reports ("CORs"), from 2010-2011 to 2014-2015 were as follows:

	Financial Provision (Actual, \$ million)
2010-2011	837.5
2011-2012	872.1
2012-2013	1,029.8
2013-2014	1,106.3
2014-2015	1,142.7

- the manpower and financial figures in the tables above were in respect of the operation of the entire department and the resources deployed solely for the enforcement actions against UBWs under the revised enforcement policy could not be separately identified from the above aggregate figures;
- as submitted in CORs and shown in paragraph 2.9 and Figure 2 of the Audit Report, the number of UBWs removed in each of the years from 2008 to 2014 were as follows:

	2008	2009	2010	2011	2012	2013	2014
No. of UBWs removed	47 593	42 425	25 751	17 879	13 581	14 972	22 866

- the vast majority of UBWs removed were "actionable UBWs" and they were removed to comply with BD's removal orders. However, BD was not able to provide a breakdown of the UBWs removed in a year categorized into "actionable UBWs" and "non-actionable UBWs" due to the current limitations of BD's Building Condition Information System ("BCIS"). With the completion of the programme targeting at UBWs on external walls of buildings by the end of 2010, which took 10 years or so, the number of UBWs removed from 2011 onwards was expected to drop and it did drop as the remaining UBWs were less easily identifiable and accessible, and their removal sometimes involved dispossession. Moreover, factors such as the prevailing manpower situation and work priorities of BD, building owners' inclination to remove UBWs voluntarily, the ease of inspection, etc. might further cause fluctuations to the number of UBWs removed from year to year; and

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- as BD would review the enforcement policy and progressively tighten up the control regime by including more UBWs into the "actionable UBWs" category, BD would expand its scope of priority enforcement work and also hope that building owners whose UBWs were not but, following the review, had become "actionable" would clear the UBWs on their own volition without waiting until BD's enforcement or prosecution action. The same consideration was made when the Administration included rooftop-podium-lane UBWs irrespective of their public safety and environmental risks in the "actionable UBWs" category, and when the Administration considered the additional manpower and financial resources that BD should be provided with for the revised enforcement policy.

14. According to paragraph 2.7(b) of the Audit Report, BD was not able to provide a breakdown of the manpower or expenditure involved solely for the enforcement actions on UBWs. The Committee asked why BD was not able to provide such figures and whether an estimate of resources deployed for the enforcement actions on UBWs could be provided.

15. **Director of Buildings** explained at the public hearings and in his letter dated 20 May 2015 (in *Appendix 8*) that:

- threat to building safety would multiply if the existence of UBWs coincided with a lack of proper building repair and maintenance. For instance, an SDF, against which enforcement actions were taken, might invariably involve UBWs and fire and/or structural safety issues. The flat below the SDF might suffer from concrete spalling or water seepage which was a typical disrepair or hygiene issue in relation to UBW problem. UBWs often led to other kinds of building safety issues at the same time;
- in view of the above and to avoid causing confusion to building owners for having to work with different divisions/sections of BD, BD had adopted a "building co-ordinators" ("BC") approach since 2011 whereby the same team of officers were 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 had 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

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under its purview. It also provided greater convenience to building owners as they only had to liaise with one single contact point in BD on all the building safety issues/complaints concerning their buildings. The Development Bureau ("DEVB") briefed the Legislative Council ("LegCo") Panel on Development on, among other matters, the adoption of the BC approach at its meeting on 20 June 2011³ and Members were generally content with the approach;

- in response to each major building safety incident, BD had 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 LSOs targeted at SDFs 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. In addition, BD officers might be called upon to attend to emergency reports related to building safety issues in their respective districts; and
- 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.

16. At the request of the Committee, **Director of Buildings** provided the duties, manpower and key performance indicators of the three Divisions (i.e. Existing Buildings Divisions 1 and 2 and Mandatory Building Inspection Division) and the Minor Works and Signboard Control Section under the Corporate Services Division in BD responsible for handling UBWs cases and implementing the building safety and maintenance enforcement programmes on existing buildings (in *Appendix 9 and Appendix 10*).

17. The Committee noted from Table 1 and Figure 2 of the Audit Report that additional funding of \$2,930 million had been allocated by the Administration to BD to take UBW enforcement actions and implement measures to enhance building safety from 2001-2002 to 2014-2015. However, the number of removal of UBWs had been decreasing since 2011 from an average of 40 526 a year (for 2001 to 2010) to an average of 17 325 a year (for 2011 to 2014).

³ Please refer to the paper submitted by DEVB to LegCo Panel on Development in June 2011 ((LC Paper No. CB(1)2487/10-11(01)) for details.

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18. The Committee further noted from paragraphs 3.5, 3.12, 3.13, 3.17 and 5.10 of the Audit Report that BD had taken a long time to issue removal orders on actionable UBWs as well as to refer warning notices and removal orders to LR for registration.

19. Against the above background, the Committee enquired about the reasons for such decrease in the removal of UBWs and the long time taken for BD to take follow-up actions on UBWs since 2011.

20. **Director of Buildings** replied at the public hearings that:

- for the funding allocated to BD from 2001-2002 to 2011-2012, BD had used them mostly for employing additional staff and engaging consultants to take enforcement actions against UBWs;
- from 2001 to 2010, BD had launched various LSOs to clear at one go external UBWs and a large number of UBWs had been demolished during this period;
- for the funding allocated to BD from 2011-2012 to 2014-2015, BD had used them to implement measures, such as LSOs, MWCS, 2011 stock-taking exercise and other building safety measures. Most of these measures were not directly related to the removal of UBWs;
- since 2011, BD had taken actions against rooftop-podium-lane UBWs and had stepped up enforcement actions against SDFs. It was relatively difficult to take enforcement actions on these UBW cases ;
- after removal of over 400 000 UBWs from 2001 to 2010, the number of NCSC staff employed for the task had been reduced and the duties of the vacant posts had to be shared by the remaining BD's staff;
- some staff resources had been allocated to conduct inspections on building safety as triggered by major incidents in recent years. Examples of which were the collapse of a building at Ma Tau Wai Road in January 2010, the Kin Kwan Street canopy collapse incident in June 2011 and the Fa Yuen Street fire incident in November 2011;
- from 2011 to 2015, BD had created about 500 civil servant posts of which more than 400 posts had been taken up by NCSC staff

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previously employed by BD after they had successfully gone through a long recruitment process; and

- BD was now starting to clear the outstanding UBW cases.

21. In reply to the Committee's enquiry about the reservation of some staff resource to handle ad hoc special operations triggered by major incidents, **Director of Buildings** said at the public hearings that BD's service covered about 41 000 private buildings and all general building safety problems, public reports and enforcement against building dilapidation. Different types of UBWs in one building were handled by the same team of officers. Therefore, under the existing manpower establishment, BD did not have additional resources available for setting up special teams to handle unexpected incidents.

22. According to paragraph 2.9(b) of the Audit Report, one of the reasons for the decrease in the number of removal of UBWs since 2010 was due to the enforcement actions on the remaining UBWs were relatively difficult to be taken. In addition, according to paragraph 2.22 of the Audit Report, DEVB informed LegCo in April 2001 that BD would clear all 12 000 illegal rooftop structures on the 4 500 single-staircase buildings by 2007. However, as of January 2015, illegal rooftop structures on 33 single-staircase buildings had not been removed. In February 2015, BD informed Audit that the remaining illegal rooftop structures on 33 single-staircase buildings were sensitive cases and some of them were subject to court appeals, prosecution or planned closure actions, and some involved emotional owners/occupants. Under the above circumstances, the Committee queried whether BD had clearly defined actionable UBWs and whether priority had been given to taking actions on UBW cases which could be resolved easily, instead of cases with obvious or imminent danger to life or property or new UBWs.

23. **Director of Buildings** explained at the public hearings that:

- BD had no intention to take priority enforcement actions against UBW cases which could be resolved easily and defer actions on difficult cases;
- according to the policy on UBWs adopted in 2011, BD's staff would take enforcement actions against seven types of actionable UBWs;

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- BD had formulated guidelines to assist staff in categorizing UBW cases, in particular cases with obvious or imminent danger to life or property or cases of new UBWs;
- regarding the illegal rooftop structures on 33 single-staircase buildings, although BD had already issued removal orders on all these cases, these illegal structures had not been removed because some of these cases were subject to court appeals, prosecution or planned closure actions, and some cases involved emotional old aged owners/occupants; and
- BD attached great importance to these cases and would continue to follow up and complete these cases.

24. As revealed in paragraph 2.16(b) of the Audit Report, while the total number of UBWs removed each year was published in BD's COR and on its website, BD did not consider it necessary to show a breakdown of the number of UBWs removed each year into actionable and non-actionable categories. The Committee asked whether BD had a breakdown of UBWs removed each year into actionable and non-actionable UBWs and whether BD would consider publishing such figures in its COR and on its website with a view to enhancing public accountability and transparency of BD's effectiveness in tackling the UBW problem.

25. **Director of Buildings** explained at the public hearings and in his letter dated 20 May 2015 (in Appendix 8) that:

- it was BD's practice to issue removal orders against UBWs which were 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 orders⁴, and hence were actionable UBWs. The other UBWs removed might fall under any of the following categories:
 - (a) UBWs issued with a warning notice, which were non-actionable UBWs;

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

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- (b) 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
 - (c) UBWs, which could be actionable or non-actionable⁵, that were not subject to any warning notice or advisory letter but were removed voluntarily;
- at present, BD's BCIS did not capture information as to whether UBWs removed under categories (b) and (c) above were actionable or not, and hence BD was not able to provide a breakdown of the UBWs removed in a year into actionable and non-actionable categories; and
 - in the light of the Committee's concern, BD had reviewed the present arrangement and decided to build additional functionality into BCIS through its current revamp such that the above breakdown could be provided. BD would publish the breakdown on its website and in its COR when the required work was completed.

26. The Committee further asked whether BD had a breakdown of UBWs identified but not yet removed into actionable and non-actionable categories and how BD would estimate the scale of the UBW problem and assess the manpower and other resources required to handle all actionable UBWs if BD did not have such figures.

27. **Director of Buildings** explained at the public hearings and in his letter dated 20 May 2015 (in Appendix 8) that:

- the scope of actionable UBWs depended on the prevailing enforcement policy which was revised from time to time to meet the needs of the circumstances. Moreover, UBWs which were non-actionable might later on become dangerous and actionable. On the other hand, building owners might remove UBWs voluntarily before BD's enforcement action. Given these variables and that the status of UBWs kept on changing, BD was unable to compile a breakdown of identified but not yet removed UBWs by "actionable" status; and
- in addition, the number of removal orders issued and UBWs rectified might not be commensurate with efforts spent, e.g. the removal of

⁵ About 5%, 2% and 2% of the UBWs removed in 2014 fell under categories (a), (b) and (c) respectively.

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metal gates and supporting frames for air conditioning units was much easier than removal of rooftop structures and irregularities of SDFs which would involve dispossession.

28. The Committee noted from paragraph 2.10 of the Audit Report that in June 2011, BD informed LegCo that the 2011 stock-taking exercise would enable BD to set up a comprehensive database for making appropriate arrangements for prioritizing its enforcement actions. In addition, it was the Administration's policy to take enforcement actions (i.e. issuing removal orders and taking prosecution action) on actionable UBWs and actions on non-actionable UBWs would be deferred. However, according to paragraph 2.12(a) of the Audit Report, the 2011 stock-taking exercise did not have an objective or intention to accurately identify the number of actionable UBWs for taking enforcement actions.

29. Under the above circumstances, the Committee asked why BD did not require the consultants to classify the suspected UBWs found in the stock-taking exercise into actionable and non-actionable categories.

30. **Director of Buildings** said at the public hearings and in his letter dated 20 May 2015 (in Appendix 8) that:

- as explained by Secretary for Development in an oral reply to a LegCo question at the Council meeting on 8 June 2011, the 2011 stock-taking exercise 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 prioritizing its enforcement actions and conducting various LSOs;
- besides the survey reports of the types and number of suspected UBWs, the database enhanced after the 2011 stock-taking exercise now housed within BCIS also contained a repository of some 600 000 digital photo records taken during the exercise, which covered all elevations of the external walls and roofs on each of the 41 000 private buildings. Such data provided very useful references to BD staff and greatly facilitated BD's day-to-day handling of over 40 000 reports on suspected UBWs per annum;
- the purpose of the 2011 stock-taking exercise was not to ascertain whether the suspected UBWs found were actionable or not.

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Ascertaining whether certain UBWs were actionable for the purpose of initiating enforcement or prosecution actions required 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 stock-taking exercise; and

- for reference, the average cost for identifying and establishing actionable UBWs in BD's outsourced consultancy for typical LSOs was about \$5,000 for one building whereas the cost of inspecting a building under the 2011 stock-taking exercise was only about \$700. If all the 41 000 private buildings covered by the 2011 stock-taking exercise were required to be inspected to the same level of details as the typical LSOs for the purpose of categorizing the UBWs spotted into actionable and non-actionable UBWs, the time and cost required for the task would be enormous.

31. With reference to the incident of falling concrete slab in North Point on 11 March 2015, the Committee asked whether the building concerned was covered under the 2011 stock-taking exercise and whether the relevant BD's consultant had submitted any report(s) regarding the safety conditions of the building concerned during site inspection.

32. **Director of Buildings** explained in his letter dated 20 May 2015 (in Appendix 8) that the consultants in the 2011 stock-taking exercise 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 was covered under the 2011 stock-taking exercise. According to the proforma submitted by BD's 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 of the building. The investigation on the cause of the incident that occurred on 11 March 2015 was still in progress.

33. According to paragraph 2.17 of Audit Report, BD had in 2001 set a target of removing 150 000 to 300 000 UBWs in five to seven years. However, BD had not set similar targets since 2011. The Committee enquired about the reasons for not setting similar targets since 2011 and whether consideration would be given to setting similar targets in the future.

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34. **Director of Buildings** explained at the public hearings and in his letter dated 20 May 2015 (in Appendix 8) that:

- as mentioned in the paper from DEVB to LegCo Panel on Development in June 2011⁶, the Administration 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 remained an extensive and complex issue;
- it was not practicable for BD to aim at taking immediate enforcement actions against all UBWs that existed throughout the territory within a short timeframe. Hong Kong needed sustained, ongoing efforts to tackle the problem of UBWs. The problem would not go away completely until and unless all building owners became highly conscious of and honoured their ultimate responsibility to free their properties of UBWs; and
- against the above background, BD had 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. BD would continue its efforts in these regards. In particular, on the enforcement front, BD would continue to adopt a risk-based approach for issuing removal orders against actionable UBWs and take immediate enforcement actions against those UBWs involving works-in-progress and dangerous structures. On the other hand, BD would continue to respond to reports and conduct LSOs to clear UBWs on building basis. BD would also continue to set annual targets and indicators for its enforcement actions having regard to its manpower situation.

35. The Committee noted from paragraph 2.31 of the Audit Report that from 2011 to 2013, of the 2 342 cases with site audits completed, BD had identified a total of 34 cases of minor works involving non-compliance with the requirements of the Buildings Ordinance (Cap. 123) by prescribed building professionals and prescribed registered contractors. However, BD had not issued warning letters to them or taken any prosecution action against them. For 2014, of the 774 cases audited, BD identified a total of 100 cases (13%) involving irregularities, and it had only issued

⁶ Please refer to the paper submitted by DEVB to LegCo Panel on Development in June 2011 ((LC Paper No. CB(1)2487/10-11(01)) for details.

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13 warning letters to the related parties and referred four cases to BD Legal Services Section for prosecution action. The Committee asked why BD had only taken follow-up actions against a small number of non-compliant building professionals and registered contractors.

36. **Mrs HUI Ming-fong, Chief Officer/Minor Works and Signboard Control of BD**, said at the public hearings and **Director of Buildings** supplemented in his letter dated 20 May 2015 (in Appendix 8) that:

- at the early stage of implementation of 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;
- 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 organizations 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;
- 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 included:
 - (a) the publishing of relevant guidelines and the uploading of the same onto BD's website;
 - (b) the broadcasting of Announcement in the Public Interest on TV, radio, buses and trains;

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- (c) the setting up of the Technical Committee on MWCS as a forum for representatives of relevant trade organizations to discuss technical and implementation issues relating to the duties and practice of the prescribed professionals and contractors;
 - (d) the conducting of briefings/seminars for the industry and the public (over 110 briefings/seminars involving over 12 300 participants);
 - (e) the launching of a mobile application for MWCS, including the Household Minor Works Validation Scheme as well as the Validation Scheme for Unauthorized Signboards;
 - (f) the handling of over 21 000 formal enquiries; and
 - (g) the organization of the Building Safety Week in March 2015 to raise public awareness on building safety including MWCS (with over 13 000 participants); and
- since 2014, BD had 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 would consider initiating disciplinary proceedings against the registered professionals or contractors under the Buildings Ordinance (Cap. 123), and referring the cases to the relevant professional bodies for appropriate follow-up actions.

37. The Committee noted from paragraph 2.21 of the Audit Report that according to BD, an estimate of 86 400 suspected unauthorized signboards could be validated under the Validation Scheme for Unauthorized Signboards. However, from commencement in September 2013 of the Scheme to January 2015, BD had only received 190 related applications and only 35 signboards had been validated under the Scheme.

38. The Committee further noted from paragraph 2.32 of the Audit Report that according to BD, some 96% (or 1 795 200) of the 1 870 000 household minor works identified in the 2011 stock-taking exercise could be validated under the Household Minor Works Validation Scheme. BD set targets of validating 1 000 of these minor works in 2011 and 100 each in 2012 to 2014 (i.e. a total of 1 300 household minor

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works from 2011 to 2014). However, from commencement of the Household Minor Works Validation Scheme in December 2010 to December 2014, BD had only received 83 related applications of which 29 applications involving 76 (6% of 1 300) household minor works had been validated under the Scheme.

39. In view of the low response rates of both of the Household Minor Works Validation Scheme and the Validation Scheme for Unauthorized Signboards, the Committee asked for the measures taken/to be taken by BD to improve the response rate of the Schemes.

40. **Chief Officer/Minor Works and Signboard Control of BD** said at the public hearings and **Director of Buildings** supplemented in his letter dated 20 May 2015 (in Appendix 8) that:

- the implementation of MWCS presented an option for owners to tackle their minor UBWs, namely by removing and re-erecting the minor works in accordance with the simplified procedures under MWCS; or through validation under the Household Minor Works Validation Scheme or the Validation Scheme for Unauthorized Signboards;
- BD had taken the following publicity measures to improve the response rate of the Household Minor Works Validation Scheme and the Validation Scheme for Unauthorized Signboards:
 - (a) the publishing of a booklet introducing the Validation Scheme for Unauthorized Signboards and a pamphlet on the Household Minor Works Validation Scheme;
 - (b) the uploading of relevant guidelines onto BD's website;
 - (c) the broadcasting of Announcement in the Public Interest on TV, radio, buses and trains;
 - (d) the conducting of briefings for the industry and the public;
 - (e) the launching of a mobile application for MWCS, including the Household Minor Works Validation Scheme as well as the Validation Scheme for Unauthorized Signboards;

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- (f) the introduction of the Validation Scheme for Unauthorized Signboards to food business operators during their licensing applications; and
 - (g) the organization of the Building Safety Week in March 2015 to raise public awareness on building safety including the Household Minor Works Validation Scheme as well as the Validation Scheme for Unauthorized Signboards (with over 13 000 participants); and
- BD would continue its publicity efforts to promote the two Schemes as and when necessary.

41. The Committee further asked whether BD would step up the 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 two Schemes.

42. **Chief Officer/Minor Works and Signboard Control of BD** said at the public hearings and **Director of Buildings** supplemented in his letter dated 20 May 2015 (in Appendix 8) that:

- to encourage owners to either remove and re-erect or validate their minor UBWs promptly, BD was taking progressive enforcement actions, starting with unauthorized 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 unauthorized signboards if these signboards had not been validated or were not eligible for validation under the Validation Scheme for Unauthorized Signboards;
- as a conciliatory approach, these signboard owners were allowed to validate their signboards as a means of compliance with the removal orders provided that the signboards were eligible for validation. Whilst there was good progress of compliance with the removal orders, only 16% of all signboards issued with removal orders under this LSO were validated under the Validation Scheme for Unauthorized Signboards, and more owners chose to remove and re-erect their signboards. This showed that the owners preferred the option of removal and re-erection to the validation option; and

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- in 2015, LSO would be extended to five target streets in different districts, namely Central and Western, Wanchai, Sham Shui Po, Yau Tsim Mong and Kowloon City.

43. In reply to the Committee's enquiry regarding the existing policy on the regulation of UBWs in the New Territories and the measures to be taken by BD to tackle such problem, **Director of Buildings** stated in his letter dated 15 June 2015 (in Appendix 7) that:

- New Territories Exempted Houses ("NTEHs") had a long history and the regulatory framework for these houses had all along been different from that for buildings in urban areas. Notably, NTEHs which met the specifications stipulated in the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) were exempt from specific provisions of the Buildings Ordinance (Cap. 123) and the regulations made under that Ordinance. Having regard to the current regulatory regime for control of NTEHs, the actual situation on the ground and the views of various parties and also taking reference from the past experience and strategy in tackling UBWs in the urban areas, the Administration announced an enhanced enforcement strategy against UBWs in NTEHs in 2011. DEVB briefed LegCo Panel on Development on 28 June 2011 on the enhanced enforcement strategy⁷, which had been implemented since April 2012; and
- in gist, the enhanced enforcement strategy was founded on the principles of safeguarding building and public safety, acting in accordance with the law, categorization for control and management, and prioritization for progressive enforcement. BD accorded priority to tackle those UBWs which posed obvious hazards or imminent danger to life or property; and, to contain the proliferation of the problem, also those under construction, newly completed, or constituting serious contravention of the law and imposing higher potential risks. For other UBWs constituting less serious contravention of the law and imposing lower potential risks, BD had introduced a reporting scheme to gather useful data and statistics for risk assessment and to formulate progressive enforcement plans. From April 2012 to end-2014, BD had inspected over 16 500 village houses and identified the first round targets for proactive enforcement actions. As at end-May 2015, BD had accepted around

⁷ Please refer to the paper submitted by DEVB to LegCo Panel on Development in June 2011 (LC Paper No. CB(1)2530/10-11(05)) for details.

12 000 reporting forms received under the Reporting Scheme for UBWs, and the relevant UBWs could be temporarily retained during the first round of enforcement actions unless they posed imminent danger.

C. Handling of public reports

44. According to paragraph 3.5 of the Audit Report, as of October 2014, BD had not issued removal orders on confirmed actionable UBWs relating to 4 522 public reports more than six months to five years after conducting inspections. The Committee was concerned about the long time taken by BD in issuing removal orders on actionable UBWs and enquired about the main problems encountered by BD in handling these cases.

45. **Director of Buildings** explained at the public hearings and in his letter dated 15 June 2015 (in Appendix 7) that:

- BD staff strived to make every effort to carry out their statutory duties most expediently and cost-effectively. However, each UBWs case had its own special circumstances, settings and timing that would affect the assessment on the appropriate actions to be taken including whether and when to issue a removal order, taking into account first and foremost, public safety. Other factors might include BD's enforcement policy and operational guidelines, ease of access to the UBWs and the level of details obtainable therefrom, any change in the condition of the UBWs, any scheduled operation against the relevant building, undertakings from the building owners upon receipt of any advisory/warning letters, etc. Therefore, the period between initial inspection and the issue of removal order varied from case to case, and was not an appropriate parameter for appraising BD's case management and the gravity of the case;
- BD's time target for handling UBWs public reports at Appendix C to the Audit Report only provided an indicative timeframe for handling simple and straight-forward cases, and the actual timeframe would vary according to workload situation and complexity of individual cases;
- the figures in paragraph 3.5 of the Audit Report should be read in context. There had been considerable surge in the number of public reports on UBWs received by BD in recent years (*viz.* a 59% increase

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from 25 804 cases in 2008 to 41 146 cases in 2014), and the most probable reason was the drastic rise in public awareness of the danger and safety risks UBWs would bring following the building collapse incident in Ma Tau Wai in 2010;

- given the specificity in the facts of each case, it would require considerable manpower and time to manually study the individual case records on the considerations taken into account in each of the 4 522 public reports for ascertaining the reasons, as requested, for exceeding the time target in issuing removal orders. However, BD had attempted to gather from the enforcement experience of its staff several common reasons that had led to exceedance of the target time:
 - (a) non-emergency reports concerning buildings included or to be included in LSOs would be dealt with during the respective LSOs, where all "actionable UBWs" in the same target building could be tackled at one go efficiently. About 60% of the said 4 522 reports pending issue of removal orders belonged to this category;
 - (b) the occurrence of major building safety incidents in recent years resulted in sudden upsurge of workload that necessitated BD to re-prioritize its work at hand;
 - (c) BD staff had to make repeated and abortive visits at different times of days, as they had been refused, disputed or otherwise not given access by relevant building owners/property managers/occupants to the premises necessary for ascertaining the details of the UBWs, particularly for reports involving SDFs; and
 - (d) building owners, upon receipt of advisory letters, showed inclination to remove the UBWs voluntarily but eventually retracted, or passed on ownership of the premises to a third party; and
- from October 2014 to end-March 2015, BD had already dealt with 474 of the 4 522 public reports. BD would continue to strengthen action by reprioritizing its work to expedite the follow-up of the outstanding cases.

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46. The Committee noted from paragraph 8(d) of Case 1 of the Audit Report that a case review conducted by BD in February 2015 revealed that the action taken on this case had not complied with BD guidelines and that BD had inappropriately ruled that the cockloft and associated staircase were not new UBWs. The Committee asked how BD could enhance the understanding and ensure compliance of BD guidelines by its staff in discharge of their duties.

47. In reply, **Director of Buildings** stated at the public hearings and in his letter dated 15 June 2015 (in Appendix 7) that:

- the case in question was a rather complicated case. The BD officer had inappropriately ruled that the cockloft and associated staircase were not new UBWs. BD subsequently issued a removal order against them in March 2015, and their owner had lodged an appeal against the removal order; and
- BD was reviewing the need for clarifying the verification criteria for new UBWs in the relevant guidelines, with a view to facilitating better understanding and more consistent judgment by BD staff in identifying new UBWs.

48. The Committee was concerned that, as revealed in paragraph 3.12 of the Audit Report, as of October 2014, of the 25 313 public reports on rooftop-podium-lane UBWs received from April 2011 to October 2014, only 3 357 (13%) of such public reports had been dealt with, with the remaining 21 956 (87%) reports awaiting BD actions, some of which had been outstanding for up to 43 months.

49. The Committee further noted from paragraph 3.13 of the Audit Report that, as of October 2014, 25 887 warning notices had been issued on rooftop-podium-lane UBWs before April 2011 but had not been complied with, and removal orders had not been issued for related UBWs. Subsequent to the enhanced policy adopted from April 2011, all rooftop-podium-lane UBWs were actionable UBWs. The Committee was concerned about the large number of these actionable UBWs and asked about the measures to be taken by BD to follow up on these actionable UBWs and the timetable for implementation.

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50. **Director of Buildings** explained at the public hearings and in his letter dated 15 June 2015 (in Appendix 7) that:

- rooftop-podium-lane UBWs, irrespective of their public safety and environmental risks, were added to the "actionable UBWs" category in April 2011. From then to end-2014, BD had issued removal orders against about 18 000 rooftop-podium-lane UBWs, of which about 11 000 had been recorded as removed. By end-May 2015, BD had dealt with 4 088 (16%) of the 25 313 public reports dated April 2011 to October 2014 on rooftop-podium-lane UBWs, and included about 20% of the subject rooftop-podium-lane UBWs of the 25 887 non-compliant warning notices (as at October 2014) in LSOs. The effort would continue;
- despite the removal of most of the high-risk UBWs from 2001 to 2011, the problem remained so extensive and complex that it was impracticable for BD to aim at taking enforcement action against all UBWs in Hong Kong within a set timeframe. Moreover, unless and until all building owners honoured their due responsibility to abide by the law, removed UBWs out of their own volition and not carried out UBWs would Hong Kong be cleared of all UBWs. BD's enforcement actions would therefore be on-going and no timetable for clearing all UBWs, including the rooftop-podium-lane UBWs, could be set; and
- on enforcement, instead of devising a timetable for implementation, BD was taking a risk-based approach for issuing removal orders against UBWs in the "actionable UBWs" category in an orderly manner by taking immediate action against dangerous or in-progress UBWs while acting on public reports and LSOs on building basis for the rest.

51. According to paragraph 3.16 of the Audit Report, DEVB informed LegCo in April 2003 that registration of warning notices at LR would enhance consumer protection for prospective property buyers, who would become aware of the existence of UBWs in premises through a land search at LR. According to section 24C of the Buildings Ordinance (Cap. 123) (effective from 31 December 2004), BD shall cause a non-compliant warning notice to be registered at LR. However, as revealed in paragraphs 3.18 and 3.19 of the Audit Report, there were 985 non-compliant warning notices referred back from LR for follow-up action and 147 warning notices not having been referred to LR.

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52. The Committee further noted from paragraph 5.3 of the Audit Report that DEVB informed LegCo in May 2004 that, upon the service of a removal order on an owner, BD would at the same time send a copy of the order to LR for registration. According to paragraphs 5.5 to 5.7 of the Audit Report, from 2004 to 2013, BD issued a total of 261 907 removal orders. However, as of October 2014, BD's BCIS had only recorded the dates of sending 2 654 (1%) out of the 261 907 removal orders to LR for registration. In addition, four out of 30 sample removal orders issued in May 2013 and selected by Audit for examination had not been registered at LR.

53. Against the above background, the Committee asked:

- the follow-up actions on the 985 non-compliant warning notices referred back from LR and the 147 warning notices that had not been referred to LR;
- the updated figures on the outstanding removal orders that had not been registered and follow-up actions to be taken by BD;
- measures that BD had taken/would take to ensure that all removal orders were sent to LR for registration and/or BCIS was updated in a timely manner, and the timetable for implementing such measures; and
- measures that BD had taken/would take to ensure that follow-up actions were taken on cases that could not be or had not been registered and referred back by LR for follow-up actions.

54. **Director of Buildings** explained at the public hearings and in his letter dated 15 June 2015 (in Appendix 7) that:

- as an established practice, BD would, though it was not a statutory requirement under the Buildings Ordinance (Cap. 123), register all removal orders at LR;
- BD's BCIS had only recorded the dates of sending 1% of the 261 907 removal orders to LR for registration because BD had not required its staff to record such information in its BCIS in order to reduce their workloads. In fact, most of the removal orders had been registered at LR;

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- among the 147 warning notices yet to be registered with LR and 985 returned by but yet to be re-forwarded to LR for registration, 38 and 137 warning notices had been sent or re-forwarded to LR by end-April 2015, i.e. only 957 (147+985-38-137) warning notices (3.7%) had not been registered among the 25 887 non-compliant warning notices mentioned in paragraph 3.13 of the Audit Report. Except those to be substituted with removal orders under the current enforcement policy (such as those on rooftop-podium-lane UBWs) or required re-issue of notices due to change in property ownership, BD would refer or re-forward the remaining notices to LR for registration; and

- BD had tightened the monitoring of the registration situation with the establishment of the Progress Monitoring Committee, chaired personally by Director of Buildings and attended by relevant directorate officers of the department, and would enhance its BCIS to facilitate the monitoring of the registration of statutory instruments. BD was also exploring with LR on the feasibility of providing computer data to BD on the registration of statutory instruments for automatic uploading into BCIS.

55. Referring to note 2 of Appendix C to the Audit Report which stated that "according to the BD, for the purpose of expediting actions to clear the backlog of outstanding removal orders, some time targets on handling public reports have been extended with effect from May 2014", the Committee queried the rationale for extending the targets on handling public reports in order to expedite the actions to clear the backlog of outstanding removal orders.

56. **Director of Buildings** explained at the public hearings and in his letter dated 15 June 2015 (in Appendix 7) that there had been considerable increase in the number of public reports on UBWs in recent years probably as public awareness and concerns hiked following the Ma Tau Wai building collapse incident. As resources were not unlimited, BD had to prioritize its commitments to make optimal use of the available resources. In the past, inadequate follow-up on a huge backlog of long outstanding removal orders had undermined the deterrent effect of BD's enforcement actions. BD had thus decided to redeploy more manpower to clear such backlog cases as a matter of priority. As a result, less urgent steps in the handling of public reports would have to be given a longer implementation timeframe. Whereas, with public safety as BD's first and foremost consideration, the timeframe for inspection upon and screening of public reports would remain unchanged, so that cases

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requiring urgent action could be identified and attended to without delay. Thereafter, BC responsible for handling all building safety matters of individual buildings could be given some leeway as to when to issue advisory letters or removal orders etc. within a broad indicative timeframe.

D. Actions through large-scale operations

57. In reply to the Committee's enquiry regarding the significant slippages of completion of LSO 1 to LSO 5 and LSO 7 to LSO 10, and the measures to be taken by BD to expedite their completion, **Director of Buildings** explained at the public hearings and supplemented in his letter dated 15 June 2015 (in Appendix 7) that:

- the reasons for delay in completing the LSOs on rooftop-podium-lane UBWs (*viz.* LSOs 1 - 5) included:

Non-facilitative attitude by owners/occupants

- (a) by nature, rooftop-podium-lane UBWs were generally accessed via individually-owned units of which owners/occupants had exclusive use, often for habitation. BD staff and consultants often met with strong resistance and hostility against access, enforcement and dispossession of the premises with rooftop-podium-lane UBWs. Time and efforts were thus required for them to negotiate with, counsel, and, only as the last resort should all other approaches fail, apply for court entry warrant or closure order against the owners/occupants. Further delay would occur if the aggrieved owners/occupants lodged an appeal with the relevant statutory tribunal against BD's operations, as the Buildings Ordinance (Cap. 123) prohibited any enforcement (except emergency) until the appeal was disposed of, withdrawn or abandoned;

Personnel change in BD and consultants' firms

- (b) a large number of NCSC posts in BD had been converted to civil service establishment since 2010. At the same time, the vibrant industry situation in recent years had led to frequent staff turnover in consultant firms commissioned by BD. The personnel change in BD and consultant firms had to a certain extent affected the progress of the LSOs; and

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Optimistic estimation of manpower requirements

- (c) the original estimate of completion dates of the LSOs were made by BD without the benefits of enforcement experience, with respect to the difficulties in cases involving dispossession (e.g. rooftop-podium-lane UBWs, UBWs in SDFs) and the manpower drawn to handle unforeseeable building safety incidents. With hindsight, the estimate was too optimistic; and
- having taken a series of initiatives in recent years to enhance the methods, manageability, internal tools, guidelines and division of work for monitoring consultants' performance⁸, and with stabilized manpower as well as the benefit of actual experience, BD had reviewed the programmes for LSOs and revised their estimated completion dates, as follows:

LSO	No. of Target Buildings	Major Non-conformities in Target Buildings	No. of Target Buildings with actions not completed (as at end-April 2015)	Revised Estimated Completion Dates
1	101	Rooftop-podium-lane UBWs	60 (59%)	December 2015
2	300	Rooftop-podium-lane UBWs	104 (35%)	April 2016
3	782	Rooftop-podium-lane UBWs	622 (80%)	December 2016
4	354	Rooftop-podium-lane UBWs	305 (86%)	April 2017
5	600	Rooftop-podium-lane UBWs	600 (100%)	March 2017
6	270	Rooftop-podium-lane UBWs & UBWs in SDFs	270 (100%)	September 2016
7	116	SDFs in residential and composite buildings	47 (41%)	March 2016

⁸ Please refer to paragraph 4.17(a) of the Audit Report for details.

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LSO	No. of Target Buildings	Major Non-conformities in Target Buildings	No. of Target Buildings with actions not completed (as at end-April 2015)	Revised Estimated Completion Dates
8	338	SDFs in residential and composite buildings	200 (59%)	March 2017
9	30	SDFs in industrial buildings	7 (23%)	December 2016
10	30	SDFs in industrial buildings	2 (7%)	June 2016

58. According to Table 4, paragraphs 4.11 and 4.12(a) of the Audit Report, BD had made the final payment to Consultancy A before the consultant submitted a compliance inspection report as BD considered the service under Consultancy A had been satisfactorily completed after taking into account the consultant's commitment, difficulty in gaining access for inspection and his promise to carry out compliance inspection of the concerned target building. The Committee asked:

- whether it was BD's normal practice to make payment based on a consultant's promise to complete work;
- the number of payments made by BD to its consultant(s) before completion of work, i.e. a completion letter was issued; and
- measures to be taken by BD to control the making of final payment to consultants before completion of work.

59. **Director of Buildings** stated at the public hearings and in his letter dated 15 June 2015 (in Appendix 7) that as stipulated in Clause 3(A) of the Schedule of Fees (in *Appendix 11*) and Clauses 5.3.21 and 8.2 of the Brief (in *Appendix 12*) under BD's standard consultancy agreement, the remainder of fees was payable "on receipt of invoice after the satisfactory completion of the agreement and all target buildings being delisted by the Director's Representative", and BD was to make the final payment upon the consultant's satisfactory delivery of all the assignments required under the agreement as signified by a completion letter issued by BD. BD confessed that the certification of final payment prior to completing the contractual work and formalities due to the exceptional circumstances for Consultancy A and

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Consultancy C was unsatisfactory. Among the three LSOs mentioned in paragraph 4.7 of the Audit Report, only two out of 26 consultancies had been completed. The completion letters for the remaining consultancies had not been issued and the final payments had not been made. As an additional safeguard, BD had promulgated a new accounting requirement of stating the date of the relevant completion letter in every request to BD's Accounts Section for final payment to consultants.

60. The Committee was concerned that, as revealed in paragraph 8(b) of Case 1 and paragraph 4.12(a) of the Audit Report, there were incidents of mislaying of files, causing a delay in taking follow-up actions. The Committee asked how BD would deal with such problem.

61. **Director of Buildings** said at the public hearings and stated in his letter dated 15 June 2015 (in Appendix 7) that BD attached great importance to good file management practices. The following additional measures were taken to ensure proper handling and custody of files:

- in addition to the barcode system in place to trace file movements among BD's different units and sections, BD was running a pilot project on the use of radio-frequency identification technology for automatic identification and tracking of files; and
- regular re-circulation of internal reminders to all BD staff on proper file management.

62. Paragraph 4.24 of the Audit Report stated that BD had not published the actual number and percentage of SDFs found under LSOs on SDFs. Paragraph 4.26 of the Audit Report stated that in view of public concern over the building and fire safety of SDFs, Audit considered that there were merits for BD to publish on its website the actual number and percentage of SDFs found vis-a-vis the total number of flats covered under LSOs on SDFs. The Committee asked BD whether consideration would be given to publishing such information in BD's website as well as the location of SDFs found under LSOs.

63. **Director of Buildings** stated at the public hearings and in his letter dated 15 June 2015 (in Appendix 7) that SDFs did not necessarily involve UBWs or, as a matter of public concern, rental to multiple tenants. The focus of the relevant LSOs

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was on the UBWs commonly related to SDFs. BD would consider publishing on its website relevant statistics on LSOs targeting at SDFs.

64. In reply to the Committee's enquiry regarding whether BD had received any complaints against BD consultants which had identified UBWs in a target building and then promoted their professional services to the owners of the same building, **Director of Buildings** confirmed in his letter dated 15 June 2015 (in Appendix 7) that BD had not received any such complaints.

E. Follow-up actions on removal orders

65. As revealed in paragraph 5.15 of the Audit Report that up to December 2014, BD had not set target dates to achieve 100% clearance of removal orders issued from 2010 to 2014. The committee asked BD to provide the target dates and the respective percentage of clearance of removal orders issued from 2010 to 2014.

66. **Director of Buildings** said at the public hearings and stated in his letter dated 15 June 2015 (in Appendix 7) that in March 2014, BD set the following target percentages for clearance of past removal orders by 31 March 2015:

Year of issue of Removal Orders	Percentage of Orders to be cleared by 31 March 2015
In or before 2007	100%
2008	80%
2009	75%
2010	55%
2011	40%
2012	35%
2013	20%

The targets for clearing removal orders issued from 2010 to 2013 had been achieved by 31 March 2015⁹. The targets for clearing removal orders issued from 2010 to 2014 by 31 March 2016 were being set.

67. The Committee noted from paragraphs 5.17, 5.20(f) and 5.21 of the Audit Report that there were 7 227 outstanding removal orders related to UBWs associated

⁹ Please refer to *Appendix 13* for details. Details are also available on BD's website.

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with structural or more serious fire-safety concern and the Administration had agreed with Audit's recommendation to take actions to conduct safety inspections and take prompt action. In paragraph 5.39 of the Audit Report, Secretary for Development and Director of Buildings had agreed that BD would give priority to carrying out default works on UBWs associated with structural or more serious fire-safety concern. The Committee enquired about the updated progress of actions taken by BD as well as details of BD's plan to deal with such UBWs.

68. **Director of Buildings** stated in his letter dated 15 June 2015 (in Appendix 7) that the number of outstanding removal orders related to UBWs associated with structural or more serious fire-safety concerns had reduced to 6 835 as at March 2015, comprising 1 782 orders with structural concern, 4 971 orders associated with fire-safety concern, and 82 relating to both. Compliance inspections were being carried out as soon as practicable to further assess the safety conditions of the 1 864 cases associated with structural concern. Prosecution and/or default works would be arranged as appropriate. BD had tightened the monitoring of outstanding removal orders related to UBWs associated with structural or more serious fire-safety concern through BD's Progress Monitoring Committee.

69. The Committee noted from paragraph 5.23 of the Audit Report that there were 8 370 owners convicted of non-compliance with removal orders from 2010 to 2014 and penalties for them included fines ranging from no fine to \$100,000. The Committee asked:

- whether more than one summons had been/would be issued to one owner who had not removed their UBWs after conviction; and
- the number of cases for which the amount of fines were calculated on a daily basis during which the failure to comply with the removal orders had continued, and number of cases of which a lump-sum fine was imposed.

70. **Director of Buildings** stated in his letter dated 15 June 2015 (in Appendix 7) that of the 8 370 convictions for non-compliance of removal orders from 2010 to 2014,

- 273 cases had been prosecuted for more than once; and

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- 3 842 cases were imposed with a lump-sum fine, and the remaining 4 528 cases also with daily fines for the period of non-compliance.

71. In response to the Committee's enquiry about the basis for prosecuting a UBW case involving a former Chief Secretary for Administration, **Director of Buildings** explained at the public hearings and in his letter dated 15 June 2015 (in Appendix 7) that:

- "BD Handbook Instruction 5.8: Prosecution Policy for Prompt and Rigorous Action" (the guidelines referred to in paragraph 5.25 of the Audit Report) stipulated the minimum threshold for taking prosecution action, *viz.* meeting any of the nine criteria therein and "Guidelines for Instituting Prioritized Prosecution Against Non-complied Statutory Orders" (in *Appendix 14*) set out the circumstances to consider in determining the priority of prosecution. Neither of them was applicable to the said case which was not related to non-compliance of statutory orders; and
- BD's enforcement policy and stance against UBWs was all along to require the owner to rectify the irregularities as soon as possible. BD normally would not initiate criminal investigation in respect of contraventions of the Buildings Ordinance (Cap. 123), except where, *inter alia*, there was information showing that a registered person under the Ordinance was suspected to have taken part in the erection of UBWs or knowingly submitted misrepresented documents to BD, etc.

72. Paragraph 5.30 of the Audit Report stated that DEVB informed LegCo in October 2010 that, since there were views in the community that a tougher stance should be taken against non-compliant UBW owners to create stronger deterrent effects in order to protect public safety, BD would instigate prosecution action more readily to sanction owners who did not duly observe the statutory orders (including removal orders). However, paragraphs 5.16, 5.27 and 5.29 of the Audit Report revealed that of the 68 134 outstanding removal orders as of October 2014, only 9 608 (14%) had been referred to BD Legal Services Section for taking prosecution action against non-compliant owners. Regarding the remaining 58 526 (86%) cases, BD did not have information indicating the number of such cases meeting one or more of the nine priority criteria for prosecution¹⁰. In this connection, Audit examination of two cases revealed that, up to February 2015, no summonses had been issued to the non-compliant owners although the related UBWs had met three or

¹⁰ Please refer to paragraphs 5.25 and 5.26 of the Audit Report for details.

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more of the nine prosecution criteria. In addition, BD had only issued around 2 400 summonses each year from 2010 to 2014. At this pace, BD would take a long time to clear all the outstanding removal orders.

73. Against the above background, the Committee asked:

- why BD had only referred 14% of the outstanding removal orders to its Legal Services Section for taking prosecution actions against non-compliant owners;
- why prosecution actions had not been taken against cases that met BD's prosecution criteria; and
- whether consideration would be given to adopting a fixed penalty system for actionable UBWs identified with a view to clearing all the outstanding removal orders efficiently and achieving a greater deterrent effect.

74. **Director of Buildings** stated at the public hearings and in his letter dated 15 June 2015 (in Appendix 7) that:

- BD Legal Services Section was responsible for taking prosecution actions against non-compliant owners. From 2010, the number of NCSC staff in this Section had been reduced and there was manpower shortage in this Section;
- starting from April 2014, the manpower situation of the Section had become stable. BD had confidence that it could meet the target of taking prosecution actions against at least 3 000 cases in 2015;
- BD's guidelines for instituting prioritized prosecution on non-compliant UBW cases set out the circumstances to consider in determining the priority of prosecution. Although BD's staff did not have time to review each of the 68 134 outstanding removal orders and consider whether prosecution actions would be taken on each case, they would make reference to the guidelines for cases that warranted prosecution actions;
- given that the location, size, types, etc. of different UBWs varied, introducing a fixed penalty system for UBWs required careful

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consideration. These would include, but were not limited to the following:

- (a) fixed penalty was generally adopted for tackling minor offences (e.g. littering, illegal smoking) and, by design, issuing a fixed penalty notice must precede any prosecution instigated against the offender. This might limit the enforcement options which BD currently had against UBWs, particularly for cases imposing imminent public safety risk; and
 - (b) the economic value to the owner for retaining certain UBWs, plus the cost of demolishing them, would depend on the location, size, types, etc. of the UBWs. It would be difficult to set a fixed penalty level with adequate deterrent effect against all UBWs; and
- a fixed penalty system had been introduced for the Mandatory Window Inspection Scheme since June 2012. With more experience to be gained, BD would review its effectiveness and consider whether it should be extended to other enforcement areas, including UBWs.

75. Noting from paragraph 5.35 of the Audit Report that two of the special circumstances that default works should be carried out were "a highly publicized case" and "a highly political case", the Committee enquired how BD could ensure fairness in carrying out default works under these circumstances.

76. **Director of Buildings** stated in his letter dated 15 June 2015 (in Appendix 7) that in view of the resources and efforts involved, default works were only carried out sparingly under very exceptional circumstances for cases involving non-compliant removal orders. "Highly publicized" and "highly political" cases were those which might pose imminent threats affecting the interest and well-being of a large number of building owners/residents, amongst whom a consensus on carrying out rectification works was highly unlikely to be reached before the situation got complicated. These cases would invariably require the personal attention of the BD's directorate officers and they would need to be satisfied under BD's guidelines that the default rectification works for the cases should be arranged by BD.

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77. As revealed in paragraphs 5.27, 5.35 to 5.37 of the Audit Report, BD's officers did not follow some of BD's guidelines in the discharge of their duties, the Committee asked whether consideration would be given to updating BD's guidelines in view of the changing circumstances to facilitate its staff in the discharge of their duties.

78. **Director of Buildings** stated in his letter dated 15 June 2015 (in Appendix 7) that BD reviewed all its operational guidelines from time to time as necessary. In the light of the various recommendations in the Audit Report, BD would review the relevant guidelines by the end of 2015 and introduce amendments as necessary.

79. Paragraph 5.41 of the Audit Report stated that of the total 174 default works completed from 2009 to 2013 involving a total cost of \$14.77 million, BD had not recovered \$8.94 million (61% of \$14.77 million) in 99 cases (57% of 174 cases) as of October 2014. The Committee enquired about the latest figure on the total overdue amount and the number of cases involved, and the actions to be taken by BD to recover the overdue amount.

80. **Director of Buildings** stated in his letter dated 15 June 2015 (in Appendix 7) that the total overdue amount from default works completed from 2009 to 2013 as at end-May 2015 was \$8.32 million, involving 90 cases. The action workflow of BD to recover these overdue amounts was set out in Appendix A of BD's "EB (Existing Buildings) Division Manual Part IV Section 5 Instruction No. 3" (in *Appendix 15*). The Cost Recovery Monitoring Committee, chaired by Director of Buildings and attended by other senior BD officers, convened half-yearly meetings to closely monitor the progress of all critical cost recovery actions. Similar cost recovery monitoring meetings were held quarterly at the Sectional level.

F. System for supporting enforcement actions

81. According to paragraph 6.7 of the Audit Report, some important information, such as the dates of different stages of LSO actions taken on each target building, management reports on the number of removal orders issued and actionable UBWs identified in each building under an LSO and the dates of most of the removal orders referred to LR for registration, had not been input into or could not be provided by BD's BCIS.

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82. In reply to the Committee's enquiry about how BD would enhance BCIS, **Director of Buildings** stated in his letter dated 15 June 2015 (in Appendix 7) that the revamp of the BCIS, taking into account Audit's recommendations, was underway and included the following enhancements:

- to enable the capturing of dates of various LSO milestones, and generate management reports for monitoring the progress of LSOs, down to the level of each target building;
- to generate customized management reports of the number of removal orders issued and "actionable UBWs" identified in each LSO target building; and
- to explore with LR on the feasibility of providing computer data to BD on the registration of removal orders for automatic uploading onto BCIS.

G. Way forward

83. The Committee noted from paragraph 7.9 of the Audit Report that BD had issued a total of 4 620 summonses in 2012 and 2013, involving 5 439 UBWs, but only 3 047 out of the 5 439 UBWs (56%) had been removed. The Committee enquired the follow-up actions to be taken by BD on the remaining cases.

84. **Director of Buildings** stated at the public hearings and in his letter dated 15 June 2015 (in Appendix 7) that for UBWs yet to be removed notwithstanding the building owners having been issued with prosecution summonses, the court might impose additional fines for each day during which the non-compliance had continued. BD might also consider instigating a second prosecution against such building owners; and when the UBWs constituted imminent danger or public nuisance, etc., BD might arrange demolition or apply for court closure orders if necessary.

85. Paragraph 7.13(a) of the Audit Report mentioned that BD would offer financial assistance to owners to remove their UBWs. The Committee enquired about the types of financial assistance offered by BD and whether consideration would be given to offering other forms of financial assistance, such as reverse mortgage, to elderly owners for removing their UBWs.

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86. **Director of Buildings** stated in his letter dated 15 June 2015 (in Appendix 7) that:

- BD and its partner organisations ran various financial assistance schemes to help building owners to carry out repairs and maintenance works, including removal of UBWs. These included:
 - (a) the Integrated Building Maintenance Assistance Scheme ("IBMAS"), jointly administered by the Urban Renewal Authority and the Hong Kong Housing Society¹¹, provided "one-stop" service ranging from financial assistance (in the form of subsidy and loan) for formation of owners' corporations, works in common areas and individual units, and technical support to property owners in need;
 - (b) the Building Maintenance Grant Scheme for Elderly Owners implemented by the Hong Kong Housing Society provided financial assistance to elderly owner-occupiers in need, each entitled to a maximum grant of \$40,000, to repair and maintain their buildings and improve building safety; and
 - (c) the Building Safety Loan Scheme implemented by BD provided loans to individual owners of private buildings who were in need of financial assistance to carry out maintenance and repair works to reinstate or improve the safety conditions of their buildings and/or private slopes. The maximum loan amount was \$1 million per unit of accommodation; and
- BD considered the above schemes adequate at present to meet the building owners' needs in respect of removing UBWs.

87. The Committee noted from paragraph 7.13(b) of the Audit Report that BD had introduced a fixed penalty system for the Mandatory Window Inspection Scheme, under which a penalty notice might be served to an owner who failed to comply with a statutory window inspection notice. The Committee asked for the figure on the overdue penalty amount from 2011 to 2014 and actions to be taken by BD to recover this overdue amount.

¹¹ Beginning from 1 July 2015, the Urban Renewal Authority expanded its services by receiving and processing all new IBMAS applications in the whole territory.

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88. **Director of Buildings** said at the public hearings and provided further information in his letter dated 15 June 2015 (in Appendix 7) that of the 442 fixed penalty notices issued since the full implementation of the Mandatory Window Inspection Scheme in June 2012, 107 fixed penalty notices with a total overdue amount of \$160,500 had yet to be settled as at end-April 2015. If a building owner failed to settle the fixed penalty within the specified timeframe without disputing liability, BD might apply for a court order against the owner to settle the overdue amount. Non-compliance of the court order was liable to imprisonment.

89. At the request of the Committee, **Director of Buildings** provided a list to summarize improvement measures taken/to be taken by BD in response to the Audit Report and the enquiries of the Committee during public hearings (in *Appendix 16*).

90. The Committee was concerned that despite additional funding had been allocated to BD to cope with the increasing workloads on UBW problem, BD's performance on tackling such problem had been deteriorating since 2011. As such, the Committee asked whether DEVB would revise the policies on UBWs and set a practicable target for BD with a view to tackling the UBW problem in an effective and efficient manner.

91. **Secretary for Development** explained at the public hearings and in his letter dated 15 June 2015 (in *Appendix 17*) that:

- all UBWs were illegal. To eradicate all UBWs, the enforcement action of BD alone was inadequate. It required all building owners to abide by the law, clear existing UBWs out of their own volition and not to carry out UBWs. From the building safety point of view, all UBWs should be cleared due to their imminent or potential risk to the public. However, because of the large number of UBWs and as some building owners disregarded their due responsibility to abide by the law, it was impracticable to clear all UBWs or to set a definite timetable for that;
- enforcement priority had to be set. The enforcement policy of the Administration was risk-based. Priority was accorded to "actionable UBWs" that comprised UBWs constituting obvious or imminent danger to life or property, and new UBWs, against which BD would take enforcement action. As for UBWs in the "non-actionable" category, BD might issue warning notices and would register

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non-compliant notices at LR, or might issue advisory letters on which it would not take enforcement actions for the time being. The UBWs in the two categories were reviewed from time to time, taking into account the changing needs and community concerns. The objective was to progressively tighten the control regime by expanding the "actionable UBWs" category;

- the Administration had adopted a multi-pronged approach to tackle UBWs, and that was composed of legislation, enforcement, assistance to building owners, and publicity and public education. As the Administration progressively tightened up the control regime by including more UBWs into the "actionable" category, BD would expand its scope of enforcement work and the Administration also hoped that building owners whose UBWs were not but, following the expansion of the "actionable " category, had become "actionable" would clear the UBWs voluntarily without waiting for BD's enforcement or prosecution action; and
- over the years, the Administration had been reviewing and tightening the control regime by expanding progressively UBWs in the "actionable" category, taking into account the changing needs and community concerns. Other than that, in the light of and in order to deal with the large backlog of cases of UBWs for which BD had to issue statutory orders for rectification and instigate prosecution actions as necessary, BD had also adjusted the action priority for different UBWs within the "actionable" category. For instance, BD had in 2014 reduced the number of target buildings in its LSOs for removal of rooftop-podium-lane UBWs from 600 to 200 in order to spare some manpower to tackle non-compliant removal orders. The Administration would continue its practice to review the enforcement policy on UBWs from time to time, and would welcome and consider any practical suggestions for adjustment that would enhance its effectiveness and efficiency.

H. Conclusions and recommendations

<p style="text-align: center;">Overall comments</p>

92. The Committee:

- acknowledges that the Administration has adopted a policy since 1975 under which enforcement actions would be taken on certain types of unauthorized building works¹² ("UBWs") (known as "actionable UBWs") and those on the remaining UBWs would be deferred (known as "non-actionable UBWs"). However the Administration had not taken action to ascertain the total number of actionable UBWs when adopting this new policy at that time, nor had it taken effective measures to deal with UBWs in the buildings which were built in the 1970s, in particular UBWs that could not be rectified or removed easily due to structural limitations of the buildings. As a result, a large number of UBWs have accumulated since 1975;
- expresses serious concern and disappointment that the Development Bureau ("DEVB"), as the responsible policy bureau for formulating policies on UBWs, has not given careful thought to the complications involved in and the Buildings Department ("BD")'s capacity to cope with the resulting workloads by extending the seven types of actionable UBWs¹³ in April 2011 to include all UBWs erected on rooftops and podiums, and in yards and lanes of buildings even where these UBWs might not pose a serious hazard or environmental nuisance (known as "rooftop-podium-lane UBWs"). In addition, DEVB has not provided BD with sufficient resources to deal with the increasing number of actionable UBWs as a result of this change in policy on UBWs in April 2011. This policy change has vastly exacerbated the backlog of accumulated actionable UBWs;

12 According to paragraph 2.3 of the Audit Report, actionable UBWs mainly comprised UBWs constituting obvious or imminent danger to life or property and new UBWs under the policy on UBWs adopted in 1988.

13 According to paragraphs 2.3 and 2.4 of the Audit Report, the seven types of actionable UBWs before the policy change in April 2011 are (a) UBWs constituting obvious or imminent danger to life or property; (b) new UBWs, irrespective of the date of completion of the buildings concerned; (c) UBWs erected in or on buildings, on rooftops and podiums, and in yards and lanes constituting a serious hazard or a serious environmental nuisance; (d) major individual UBWs; (e) UBWs erected in or on individual buildings having extensive UBWs; (f) UBWs identified in buildings or groups of buildings targeted for large-scale operations or maintenance programmes; and (g) unauthorized alterations to or works in environmentally friendly features of a building for which exemption from calculation of gross floor area has been granted.

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- notes that additional funding of \$2,930 million had been allocated by the Administration to BD to take UBW enforcement actions and implement measures to enhance building safety from 2001-2002 to 2014-2015, and that the number of reports from the public and from other Government departments on UBW¹⁴ ("UBW public reports") had increased since 2011 from an average of 23 947 a year (for 2001 to 2010) to an average of 42 124 a year (for 2011 to 2014) (increased by 76%). However, the number of UBWs removed had decreased since 2011 from an average of 40 526 a year (for 2001 to 2010) to an average of 17 325 a year (for 2011 to 2014) (decreased by 57%);
- expresses serious concern and disappointment that, despite additional funding allocated to BD to cope with the increasing workloads on the UBW problem, value for money has not been achieved for this additional funding as reflected by BD's unsatisfactory performance in tackling such problem efficiently and effectively;
- considers that, despite additional funding had been allocated to BD, the resources are still inadequate, and DEVB is urged to consider the following options:
 - (a) providing sufficient resources to BD as soon as possible with a view to enabling BD to implement the policy on UBWs in an efficient and effective manner; or
 - (b) reviewing the policy on UBWs, in particular the change made in April 2011¹⁵, as soon as possible by setting practicable targets for BD to tackle the UBW problem,and report the progress and result of these matters to the Legislative Council ("LegCo") Panel on Development;
- expresses serious concern and disappointment that BD had taken a long time to follow up on outstanding removal orders pursuant to the policy change in April 2011, and this might be perceived as unfair to those flat owners who have complied with removal orders to remove UBWs as most of the non-compliant owners could get away with their UBWs;

14 BD identifies UBWs mainly through related reports from the public and the media, and referrals from other Government departments.

15 With effect from April 2011, the seven types of actionable UBWs were extended to include all UBWs erected on rooftops, podiums, as well as yards and lanes of buildings even where these UBWs might not pose a serious hazard or environmental nuisance.

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- expresses serious concern and disappointment that the small number of summonses issued each year by BD¹⁶ and the long time taken by BD to take enforcement actions against UBW owners have significantly weakened the deterrent effects of BD's enforcement actions, including prosecution, resulting in a large number of UBWs not being removed and the low response rates of the Validation Scheme for Unauthorized Signboards¹⁷ and the Household Minor Works Validation Scheme¹⁸;
- expresses serious concern and disappointment that as at June 2015, DEVB has yet to allocate sufficient funding to BD or to revise or review the policy on UBWs to address the following challenges faced by BD in tackling the problem of UBWs:
 - (a) from 2001 to 2014, the number of UBW public reports had been increasing since 2011 from an average of 23 947 a year (for 2001 to 2010) to an average of 42 124 a year (for 2011 to 2014) (increased by 76%), but the number of removal of UBWs had been decreasing since 2011 from an average of 40 526 a year (for 2001 to 2010) to an average of 17 325 a year (for 2011 to 2014) (decreased by 57%);
 - (b) as of October 2014, there were 68 134 outstanding removal orders of which 14 514 (21%) orders had been outstanding for more than six years to 10 years; and 753 (1%) for more than 10 years to 30 years;
 - (c) as of October 2014, BD had not issued removal orders on UBWs relating to 4 522 public reports where BD inspections had been conducted for more than six months to five years;
 - (d) as of October 2014, BD had not taken actions on 21 956 public reports related to rooftop-podium-lane UBWs and had not issued removal orders relating to 25 887 warning notices in respect of such UBWs;
 - (e) BD only issued a total of 4 620 summonses in 2012 and 2013 involving 5 439 UBWs. However, as of October 2014, only 3 047 (56% of 5 439) UBWs had been removed;

16 BD had issued a total of 4 620 summonses involving 5 439 UBWs in 2012 and 2013.

17 Please refer to paragraphs 2.15 and 2.21 of the Audit Report for details.

18 Please refer to paragraphs 2.15, 2.30 and 2.32 of the Audit Report for details.

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- (f) the 2011 stock-taking exercise conducted by BD found a total of 2 290 000 suspected UBWs, but BD has neither required the consultants to try to categorize them into actionable and non-actionable UBWs nor taken follow-up actions to ascertain from the findings of this exercise the number of actionable UBWs in existence that have not been issued with removal orders; and
- (g) there were significant slippages in completing the large-scale operations ("LSOs") on rooftop-podium-lane UBWs¹⁹ as well as LSOs on sub-divided flats²⁰ ("SDFs");
 - notes that according to DEVB and BD, registration of warning notices and UBW information at the Land Registry ("LR") would enhance consumer protection for prospective property buyers who would become aware of the existence of UBWs in the related premises through conducting a land search at LR;
 - expresses serious concern and disappointment that the long time taken for BD to register warning notices and removal orders at LR²¹ has undermined the above-mentioned protection for prospective property buyers;
 - expresses grave concern and disappointment that with 15 267 removal orders (22% of a total 68 134 outstanding removal orders) outstanding for more than six years and notwithstanding BD's guidelines for instituting prioritized prosecution on non-compliant UBW cases, BD has taken relatively swift enforcement actions in highly publicized UBW cases involving prominent political figures that did not meet the three criteria based upon which cases are accorded the highest priority for taking prosecution actions²², leading to the suspicion of unfairness to these owners;
 - expresses serious concern that BD's officers did not follow some of BD's guidelines²³, such as the Guidelines for Instituting Prioritized

19 Please refer to paragraphs 4.5 and 4.6 of the Audit Report for details.

20 Please refer to paragraphs 4.27 and 4.28 of the Audit Report for details.

21 Please refer to paragraphs 3.16, 3.17 and 5.10 of the Audit Report for details.

22 Please refer to paragraphs 5.25 and 5.26 of the Audit Report for details.

23 Please refer to paragraphs 5.27, 5.35 to 5.37 of the Audit Report for details.

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Prosecution Against Non-complied Statutory Orders and Guidelines for Carrying out Defaulted Works Against Non-complied Statutory Orders, in discharging their duties, but BD has not provided any reasons or has yet to revise any of those guidelines which might be deemed to be no longer applicable;

- expresses grave concern and finds it unacceptable that BD, as the responsible department for implementing policies on UBWs, has failed to tackle the problem of UBWs in an effective and efficient manner as evidenced by the following:

Implementation of Government policies on UBWs

- (a) despite additional funding of \$2,930 million allocated by the Administration to BD mostly for employing additional staff and engaging consultants to take UBW enforcement actions and implement measures to enhance building safety from 2001-2002 to 2014-2015, the number of removal of UBWs had been decreasing since 2011 from an average of 40 526 a year (for 2001 to 2010) to an average of 17 325 a year (for 2011 to 2014);
- (b) in June 2011, in response to a question from a LegCo Member, BD said that the 2011 stock-taking exercise would enable BD to set up a comprehensive database for making appropriate arrangements for prioritizing its enforcement actions and conducting LSOs. However, this exercise with an estimated total cost of \$27.4 million failed to categorize the 2 290 000 suspected UBWs into actionable and non-actionable ones, and did not identify all of the buildings which had UBWs, making it difficult for BD to prioritize its enforcement actions and set targets for removing the actionable UBWs;
- (c) BD could not provide a breakdown or an estimate of manpower or expenditure involved in the enforcement actions on UBWs, nor could it provide a breakdown of UBWs removed each year into actionable and non-actionable UBWs, making it difficult for BD to assess the manpower and other resources required to handle all actionable UBWs as well as for LegCo and the public to monitor the effectiveness of BD's work in tackling the UBW problem;

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- (d) in 2001, BD set a target of removing 150 000 to 300 000 UBWs in five to seven years. However, no such target has been set since 2011;
- (e) BD has estimated that 86 400 suspected unauthorized signboards could be validated under the Validation Scheme for Unauthorized Signboards. However, from the commencement of the Scheme in September 2013 to January 2015, BD had only received 190 applications and out of which, only 35 signboards had been validated under this Scheme²⁴;
- (f) although a total of some 13 000 illegal rooftop structures on 5 700 single-staircase buildings had been cleared by BD from 2001 to 2014, illegal rooftop structures on 33 single-staircase buildings had not been removed as of January 2015, posing serious fire risk to the occupants of these buildings;
- (g) under the self-regulatory Minor Works Control System, a building owner needs to employ a prescribed registered contractor to carry out designated minor works. From 2011 to 2013, of the 2 342 cases with site audits completed, BD had identified a total of 34 cases involving non-compliance with the requirements of the Buildings Ordinance (Cap. 123) in carrying out minor works. However, BD had not issued warning letters to the related prescribed building professionals and prescribed registered contractors or taken any prosecution action against them. For 2014, of the 774 cases audited, BD identified a total of 100 cases (13%) involving irregularities and BD only issued 13 warning letters to the related parties and referred four cases to BD Legal Services Section for prosecution action;
- (h) according to BD, some 96% (or 1 795 200) of the 1 870 000 household minor works identified in the 2011 stock-taking exercise could be validated under the Household Minor Works Validation Scheme. BD set targets of validating a total of 1 300 household minor works from 2011 to 2014. However, from the commencement of the Household Minor Works Validation Scheme in December 2010 to December 2014, BD had only received 83 related applications of which

²⁴ According to Note 8 of the Audit Report, regarding the remaining 155 applications, as of January 2015, 98 applications were in progress, 55 had been rejected and two had been withdrawn.

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29 applications involving 76 (6% of 1 300) household minor works had been validated under the Scheme;

Handling of UBW public reports

- (i) from 2004 to 2014, the number of removal orders issued had been decreasing since 2011 from an average of 31 595 a year (for 2004 to 2010) to an average of 13 140 a year (for 2011 to 2014) (decreased by 58%), and the number of advisory letters issued had also been decreasing since 2011 from an average of 7 244 a year (for 2004 to 2010) to an average of 3 753 a year (for 2011 to 2014) (decreased by 48%);
- (j) as of October 2014, BD had not issued removal orders on UBWs relating to 4 522 public reports even though BD inspections had been conducted for more than six months to five years²⁵;
- (k) as of October 2014, of the 25 313 public reports on rooftop-podium-lane UBWs received from April 2011 to October 2014, only 3 357 (13%) of such public reports had been dealt with²⁶. Of the remaining 21 956 public reports, as of October 2014, 17 862 (81%) reports had been awaiting enforcement actions for 10 months to 3.5 years;
- (l) as of October 2014, 147 non-compliant warning notices, which had been issued for four months to nine years, had not been referred to LR for registration²⁷. In addition, as of October 2014, 985 non-compliant warning notices referred back from LR (such as notices having incorrect information) had not been re-submitted to LR for registration;

Actions through LSOs

- (m) for the six LSOs on rooftop-podium-lane UBWs conducted by BD from 2010 to 2014 to cover a total of 2 337 target buildings

25 According to paragraph 3.4 of the Audit Report, before May 2014, if a UBW is found to be actionable, BD officers should issue a removal order on a confirmed actionable UBW (other than a rooftop-podium-lane UBW) within 105 days after conducting an inspection (extended to 180 days since May 2014).

26 Please refer to paragraph 3.11 of the Audit Report for the actions to be taken by BD on rooftop-podium-lane UBWs and the targets set by BD.

27 According to paragraph 3.17 of the Audit Report, a non-compliant warning notice should be referred to LR for registration within four months from the date of issuance.

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with a cost of \$35.6 million, notwithstanding that four of the six LSOs were targeted for completion from July 2011 to January 2014, as of October 2014, only actions on less than half of the target buildings covered under two out of the four LSOs had been completed while for the remaining two LSOs, actions on all target buildings had not been completed²⁸;

- (n) for the seven LSOs on SDFs conducted by BD to cover a total of 1 092 target buildings at a cost of \$12.4 million, notwithstanding that four of the seven LSOs were targeted for completion from January 2012 to June 2014, as of October 2014, actions on less than half of the buildings covered under each of the four LSOs (all conducted by BD in-house officers) had been completed²⁹;
- (o) notwithstanding the significant slippages in completing the work by the consultancies under LSOs, BD had only issued a few warning letters and adverse performance reports to the relevant consultants³⁰;
- (p) BD had made final payments to two consultancies before satisfactory completion of all work and issuance of completion letters;
- (q) BD had not published the actual number and percentage of SDFs found under LSOs on SDFs;

Follow-up actions on removal orders

- (r) BD did not keep records in its computer system of the majority of removal orders³¹ registered at LR, making it difficult for BD to monitor whether removal orders had been registered at LR;
- (s) from 2004 to 2013, BD issued a total of 261 907 removal orders, but as of October 2014, only 2 654 removal orders were recorded in BD's computer system and 80% of the 2 654 orders had been

28 Please refer to paragraphs 4.5, 4.6 and Table 3 of the Audit Report for details of LSO1 to LSO4.

29 Please refer to paragraph 4.27 of the Audit Report for details of LSO7 to LSO10.

30 Please refer to paragraph 4.9 of the Audit Report for details.

31 Please refer to paragraphs 5.5 to 5.7 of the Audit Report for details.

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sent to LR for registration more than one month to eight years after their issuance³²;

- (t) BD had not followed up on removal orders that could not be or had not been registered at LR and referred back by LR for follow-up actions;
- (u) BD had set targets of clearing all removal orders as follows:

Year of removal orders issued	Target date to achieve 100% clearance
2004	March 2008
2005	March 2009
2006	March 2010
2007	March 2011
2008	March 2013
2009	March 2014

However, as of December 2014, 1% to 25% of the removal orders issued each year from 2004 to 2009 had not been cleared³³;

- (v) as of October 2014, there were 68 134 outstanding removal orders of which:
- 14 514 (21%) orders had been outstanding for more than six years to 10 years and 753 (1%) for more than 10 years to 30 years;
 - 7 227 (11%) orders were related to UBWs associated with structural or more serious fire-safety concern (which were accorded topmost priority for clearance by BD³⁴). In particular, 1 840 (26%) of these 7 227 orders had been outstanding for more than six years (with 73 outstanding for

32 According to paragraph 5.3 of the Audit Report, DEVB in May 2004 informed LegCo that, upon the service of a removal order on an owner, BD would at the same time send a copy of the order to LR for registration.

33 Please refer to paragraph 5.14 and Table 7 of the Audit Report for details.

34 Please refer to paragraphs 3.6 and 5.17 of the Audit Report for details.

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more than 10 years) and 3 342 (46%) had been outstanding for more than two years to six years;

- only 9 608 (14%) outstanding removal orders had been referred to BD Legal Services Section for taking prosecution actions against non-compliant owners. Regarding the remaining 58 526 (86%) cases, BD did not have information indicating the number of such cases meeting one or more of the nine priority criteria for prosecution³⁵; and
 - only 98 (0.1%) orders had been issued with default works orders³⁶. Furthermore, of the remaining 68 036 (68 134 less 98) outstanding orders, 7 216 (11%) were classified as relating to UBWs that may pose structural or higher fire-safety risks. In particular, 73 of these 7 216 outstanding orders had been issued for over 10 years. Moreover, BD did not have information indicating the number of non-compliant UBW cases meeting BD criteria for default works³⁷;
- (w) as of October 2014, of the 99 cases for which default works had been completed with outstanding costs, BD had not issued demand notes to the UBW owners of 42 cases³⁸, which involved a total outstanding cost of \$5.73 million. As of October 2014, the 42 cases had been completed for 10 months to 4 years and 10 months;
- (x) as of October 2014, of the 57 (99 less 42) cases for which default works had been completed and where demand notes had been issued, s.33 certificates³⁹ for 38 cases (67%) had been registered

35 Please refer to paragraph 5.25 of the Audit Report for details of BD's nine priority criteria for prosecution.

36 According to paragraph 5.33 of the Audit Report, under section 24 of the Buildings Ordinance (Cap. 123), if an owner of a UBW fails to comply with a removal order within the specified period, BD may carry out the works on behalf of the owner (default works) and recover the costs from him.

37 Please refer to paragraph 5.35 of the Audit Report for details of BD's criteria for default works.

38 According to paragraph 5.42 of the Audit Report, demand notes should be issued by BD to owners of UBWs within 6 months after completion of default works.

39 s.33 certificate is the certificate served under section 33 of the Buildings Ordinance (Cap. 123). Under section 33 of the Buildings Ordinance, a first charge from registration of an s.33 certificate shall be void and no liability shall accrue to a bona fide purchaser if he has acquired a property and registered an interest in the property after the date of completion of default works but before the registration of an s.33 certificate. See paragraphs 5.44 and 5.45 of the Audit Report.

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at LR and 18 cases (32%) had not been registered at LR⁴⁰. As of October 2014, 13 of the 18 cases had been outstanding for more than four months, contrary to BD's four-month time target; and

Building Condition Information System ("BCIS")

- (y) some important information, such as the dates of different stages of LSO actions taken on each target building, management reports on the number of removal orders issued and actionable UBWs identified in each building under an LSO and the dates of most of the removal orders referred to LR for registration, had not been input into or could not be provided by BD's BCIS;
- notes that:
 - (a) Secretary for Development undertook to review the policy on UBWs, in particular the prioritizing of the work of BD on UBWs and the setting of targets for tackling UBWs by BD;
 - (b) Director of Buildings undertook to build additional functionality into BD's BCIS through its current revamp to provide a breakdown of UBWs removed each year into actionable and non-actionable categories. BD would publish the breakdown on its website and in its Controlling Officer's Reports ("CORs") when the required work is completed;
 - (c) 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 since 2014. In addition, BD would consider initiating disciplinary proceedings against such registered professionals or contractors under the Buildings Ordinance (Cap. 123), and referring the cases to the relevant professional bodies for appropriate follow-up actions;

⁴⁰ According to Note 28 of the Audit Report, for the remaining case, BD had granted approval to the UBW owner to settle the outstanding balance by instalments and hence it had not served the s.33 certificate on the owner.

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- (d) BD has taken a number of publicity measures⁴¹ to improve the response rate of the Household Minor Works Validation Scheme and the Validation Scheme for Unauthorized Signboards; and
 - (e) a pilot LSO on a section of Fuk Wing Street, Sham Shiu Po was launched in May 2014. Removal orders were issued against unauthorized signboards if these signboards had not been validated or were not eligible for validation under the Validation Scheme for Unauthorized Signboards. For the former cases, as a conciliatory approach, these signboard owners were still allowed to validate their signboards as a means of compliance with the removal orders. In 2015, this LSO would be extended to five target streets in different districts, namely Central and Western, Wanchai, Sham Shui Po, Yau Tsim Mong and Kowloon City;
- urges DEVB to give careful consideration to the manpower and financial implications for the departments involved in introducing new policies or changing existing policies, and allocate sufficient funding to the departments involved with a view to implementing the policies effectively and efficiently in the future; and
 - urges BD to:
 - (a) give consideration to exploring other effective means to clear the large number of long-outstanding removal orders, such as adopting a fixed penalty system for UBWs or granting amnesty to UBWs constituting no obvious or imminent danger to life or property;
 - (b) step up enforcement actions against actionable UBWs with a view to enhancing deterrent effects;
 - (c) identify the manpower and expenditure involved in the enforcement actions on UBWs with a view to assessing the manpower and expenditure required to handle actionable UBWs in an effective and efficient manner;
 - (d) prioritize the tackling of actionable UBWs and set practicable targets for removing actionable UBWs each year;

41 Please refer to paragraph 21 of Appendix 8 for details.

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- (e) expedite the clearance of illegal rooftop structures on the 33 single-staircase buildings as soon as possible to reduce the serious fire risk to the occupants of these buildings;
- (f) update its guidelines in view of the changing circumstances to facilitate its staff in their discharge of duties;
- (g) ensure its staff's compliance of guidelines in their discharge of duties;
- (h) step up its publicity measures to improve the response rate of the Household Minor Works Validation Scheme and the Validation Scheme for Unauthorized Signboards; and
- (i) take measures to ensure that important information on UBWs is updated in BCIS in a timely manner.

Specific comments

93. The Committee:

Implementation of Government policies on unauthorized building works

- expresses grave concern and finds it unacceptable that:
 - (a) while the annual number of reports from the public and from other Government departments on UBWs had increased from 24 577 in 2004 to 41 146 in 2014 (a 67% increase), the annual number of UBWs removed during the period had decreased from 41 210 in 2004 to 22 866 in 2014 (a 45% decrease);
 - (b) although the 2011 stock-taking exercise costing \$27.4 million found some 2 290 000 suspected UBWs, it did not ascertain the total number of actionable UBWs, casting doubt on the effectiveness of the exercise;

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- (c) although BD had set a target of removing 150 000 to 300 000 UBWs in five to seven years from 2001⁴², it has not set similar targets since 2011;
- (d) BD has not published any breakdown of the number of actionable and non-actionable UBWs removed during a year, which is not conducive to enhancing public accountability and transparency of BD's effectiveness in tackling the UBW problem;
- (e) although about 86 400 suspected unauthorized signboards could be validated under the Validation Scheme for Unauthorized Signboards, from the commencement of the Scheme in September 2013 to January 2015, BD had only received 190 related applications and only 35 signboards had been validated under the Scheme, casting doubt on the effectiveness of the Scheme;
- (f) although illegal rooftop structures, especially those erected on single-staircase buildings, would obstruct the fire escape route and pose serious fire risk to the occupants, and the Administration had informed LegCo that all such illegal rooftop structures would be cleared by 2007, illegal rooftop structures on 33 single-staircase buildings had not been removed as of February 2015;
- (g) regarding minor works carried out under the Minor Works Control System from 2011 to 2013, although BD had identified during its site audits 34 cases involving non-compliance with the requirements of the Buildings Ordinance (Cap. 123), it had not issued any warning letters to the related prescribed building professionals and prescribed registered contractors or taken any prosecution action against them; and
- (h) although about 1.8 million household minor works could be validated under the Household Minor Works Validation Scheme, from the commencement of the Scheme in December 2010 to December 2014, BD had only received 83 related applications of which only 29 applications involving 76 household minor works

⁴² According to the paper from DEVB to LegCo Panel on Development in June 2011 (LC Paper No. CB(1)2487/10-11(01)), the Administration conducted a ten-year UBWs Removal Programme from April 2001 to March 2011.

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had been validated under the Scheme, casting doubt on the effectiveness of the Scheme;

- urges BD to:
 - (a) take actions to ascertain the total number of actionable UBWs not having been issued with removal orders;
 - (b) formulate an action plan with timeframe to issue removal orders on actionable UBWs; and
 - (c) provide a breakdown in BD's CORs and website of the number of UBWs removed during a year into actionable and non-actionable ones;
- notes that Secretary for Development and Director of Buildings have agreed with the Audit recommendations in paragraphs 2.23 and 2.33 of the Audit Report;

Handling of public reports

- expresses grave concern and finds it unacceptable that:
 - (a) from 2001 to 2014, the number of UBW public reports had almost tripled from 13 817 in 2001 to 41 146 in 2014, but the number of removal orders issued had significantly reduced from 29 201 in 2004 to 11 816 in 2014, representing a 60% decrease;
 - (b) although BD guidelines stated that removal orders should be issued within 105 days (extended to 180 days since May 2014) after conducting inspections on actionable UBWs, as of October 2014, BD had not issued removal orders on confirmed actionable UBWs (other than rooftop-podium-lane UBWs) revealed from 4 522 public reports more than six months to five years after conducting inspections, and 703 and 1 285 of such public reports were related to UBWs associated with structural or more serious fire-safety concern and UBWs under construction respectively;
 - (c) for Case 1, BD had only issued a removal order on the confirmed UBW eight years after the first inspection and removal orders had not been issued on some UBWs on the ground that they were no longer new UBWs. BD had not informed the Lands

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Department of the UBW erected on public pavement as of January 2015;

- (d) notwithstanding that the Administration had adopted a new UBW policy since April 2011 under which all rooftop-podium-lane UBWs are actionable UBWs, as of October 2014, BD had not issued removal orders on the actionable rooftop-podium-lane UBWs relating to 21 956 (87%) of the 25 313 public reports received from April 2011 to October 2014 (of which 17 862 reports had been received for 10 months to 3.5 years), and relating to 18 275 non-compliant warning notices (net of the actionable UBWs included in 7 612 warning notices which were later again reported by the public and included in the 21 956 public reports) issued before April 2011;
 - (e) at the pace of selecting 200 buildings for conducting LSOs focusing on rooftop-podium-lane UBWs a year, BD would take a long time to clear the rooftop-podium-lane UBWs erected in about 16 000 buildings as identified in the 2011 stock-taking exercise; and
 - (f) although registration of non-compliant warning notices at LR would enhance consumer protection for prospective property buyers and it is a statutory requirement to do so, as of October 2014, 1 132 non-compliant warning notices had not been registered at LR, comprising 147 warning notices which had been issued for four months to nine years and 985 warning notices which had been referred back from LR for follow-up actions. These 985 warning notices had been issued for more than four months to 10 years;
- notes that:
- (a) BD had informed the Lands Department in February 2015 of the raised ground platform in Case 1; and
 - (b) Secretary for Development and Director of Buildings have agreed with the Audit recommendations in paragraph 3.22 of the Audit Report;

Actions through large scale operations

- expresses grave concern and finds it unacceptable that:
 - (a) as of October 2014, completion of 24 of the 26 consultancies under LSOs 2 to 4 (focusing on rooftop-podium-lane UBWs) had been delayed by nine months to three years;
 - (b) notwithstanding the significant delays in completing LSOs, BD had not issued any warning letter or adverse performance report to 17 of the 26 consultancies;
 - (c) BD had made final payments to two consultancies before satisfactory completion of all work and issuance of completion letters;
 - (d) BD's criteria for selecting target buildings for conducting LSOs on rooftop-podium-lane UBWs only required each target building to have at least one or two actionable UBWs;
 - (e) BD has not produced management information on the number of removal orders issued and actionable UBWs identified in each target building covered in an LSO, rendering BD unable to assess the effectiveness of the selection of buildings for conducting LSOs;
 - (f) BD has not published the actual number and percentage of SDFs found under LSOs on SDFs, rendering BD being unable to assess the effectiveness of the selection of buildings for conducting such LSOs; and
 - (g) as of October 2014, although the target completion dates of LSOs 7 to 10 on SDFs had already lapsed, actions on 53% to 77% of the target buildings under each LSO had not been completed;
- recommends that Director of Buildings should publish on BD's website the actual number and percentage of SDFs found vis-à-vis the total number of flats covered under LSOs on SDFs;

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- notes that Secretary for Development and Director of Buildings have agreed with the Audit recommendations in paragraphs 4.16 and 4.31 of the Audit Report;

Follow-up actions on removal orders

- expresses grave concern and finds it unacceptable that:
 - (a) although DEVB had informed LegCo in 2004 that, upon the service of a removal order on an owner, BD would at the same time send a copy of the order to LR for registration, and the registration of UBW information at LR would enhance consumer protection, BD had failed to do so, as evidenced by a legal professional association's complaint that some removal orders had not been registered at LR, and the results of Audit's sample check that four out of the 30 removal orders issued in May 2013 had not been registered at LR;
 - (b) as BD's computer system only recorded the dates of sending 1% of removal orders to LR for registration, there was little assurance that all the removal orders had been sent to and registered at LR;
 - (c) for the 1% of removal orders being recorded in BD's computer system, 80% of them were only sent to LR after more than one month to eight years since the issuance of the pertinent orders;
 - (d) as of December 2014, BD had not met its targets on clearing all removal orders issued from 2004 to 2009, ranging from 1% to 25% of the related removal orders not having been cleared, and it had not set targets dates to achieve 100% clearance of removal orders issued from 2010 to 2014;
 - (e) as of October 2014, of the 68 134 outstanding removal orders, 7 227 (11%) related to UBWs associated with structural or more serious fire-safety concern, and 72% of the 7 227 removal orders had been issued for more than two years to 18 years;
 - (f) BD did not periodically conduct safety inspections of external UBWs associated with structural concern, which may pose public safety risks;

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- (g) up to February 2015, no summonses had been issued to the non-compliant owners in Cases 3 and 4 although the related UBWs had met three or more of the nine BD's prosecution criteria;
 - (h) BD did not meet its estimates on the number of summonses issued each year in 2010, 2011, 2012 and 2014, with actual number of summonses issued falling short of the estimates by 13% to 36%; and
 - (i) notwithstanding BD's guidelines requiring demand notes be issued to owners of UBWs within six months after completion of default works, as of October 2014, BD had not issued demand notes to 42 UBW owners 10 months to four years after completion of default works;
- notes that Secretary for Development and Director of Buildings have agreed with the Audit recommendations in paragraphs 5.20, 5.31, 5.38 and 5.46 of the Audit Report;

System for supporting enforcement actions

- expresses grave concern and finds it unacceptable that:
 - (a) some important information (e.g. management reports on the number of removal orders issued and actionable UBWs identified in each building under an LSO, number of rooftop-podium-lane UBWs removed in each year, and progress of actions taken on outstanding removal orders issued since 2004) had not been input into or could not be provided by BD's BCIS, and the information could not be provided to LegCo for public accountability;
 - (b) the numbers of removal orders issued each year as published in BD's CORs had been consistently less than those recorded in BCIS, with shortfalls ranging from 9% to 23%; and
 - (c) the numbers of outstanding removal orders at year ends as published on BD's website had been consistently less than those as reported to BD's senior management, with shortfalls ranging from 13% to 18%;

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- notes that Secretary for Development and Director of Buildings have agreed with the Audit recommendations in paragraph 6.17 of the Audit Report;

Way forward

- expresses grave concern and finds it unacceptable that:
 - (a) as of October 2014, there were 68 134 outstanding removal orders, of which 21% had been outstanding for more than six years to 10 years and 1% for more than 10 years to 30 years;
 - (b) of the 4 620 summonses issued in 2012 and 2013 involving 5 439 UBWs, as of October 2014, 2 392 (44%) UBWs had not been removed; and
 - (c) at the pace of issuing 2 500 to 3 300 summonses a year, BD would take a long time to tackle the UBW problem relating to 68 134 outstanding removal orders; and
- notes that Secretary for Development and Director of Buildings have agreed with the Audit recommendation in paragraph 7.12 of the Audit Report.

Follow-up action

94. The Committee wishes to be kept informed of the progress made in implementing the various recommendations made by the Committee and the Audit Commission.