

立法會
Legislative Council

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Panel on Development

Meeting on 26 June 2017

**Background brief on enforcement actions against
illegal domestic premises in industrial buildings**

Purpose

1. This paper provides background information on enforcement actions against illegal domestic premises in industrial buildings and a brief account of the major views and concerns expressed by Members on the subject at meetings of the Legislative Council ("LegCo") and its committees/subcommittees since the 2012-2013 legislative session.

Background

2. As industrial buildings are not designed for domestic use, they are subject to requirements different from those applicable to domestic and composite buildings on various aspects, such as the provision of lighting and ventilation, means of escape and other fire safety measures. Yet, some premises in industrial buildings have been illegally converted for domestic use.¹ Tenants of such illegal domestic premises are exposed to high fire and safety risks posed by the other premises within the same industrial building which may still be used for industrial activities or storage of dangerous and inflammable goods.

¹ The Administration has advised that it does not have the statistics on the number of premises in industrial buildings converted for domestic use. However, according to the 2011 Population Census, there were about 3 000 households living in non-residential buildings (e.g. industrial and commercial buildings).

Enforcement actions against illegal domestic premises in industrial buildings

3. The Buildings Legislation (Amendment) Ordinance 2012 enacted in July 2012 empowers the Buildings Department ("BD") to apply for court warrants for gaining entry into individual premises to carry out inspection of and enforcement actions against any unauthorized building works identified therein. The Building (Minor Works) (Amendment) Regulation 2012, which came into effect on 3 October 2012, covers building works associated with subdivided units ("SDUs") under the Minor Works Control System so that such works would be required to be carried out by qualified professionals and in compliance with the Buildings Ordinance (Cap. 123) and other regulations.

4. Depending on the nature of irregularities, BD will issue statutory orders to require discontinuation of domestic use of an industrial building or removal of unauthorized building works. If an owner fails to comply with the order upon its expiry, BD will consider instigating prosecution against the owner. BD may also apply for a closure order from the District Court to facilitate government contractors to carry out the required works and recover the cost of works plus the supervision charge and surcharge from the owner.

Assistance provided to affected tenants

5. According to the Administration,² it is a government policy that no one should be rendered homeless as a result of law enforcement actions, including those taken against domestic SDUs in industrial buildings. If tenants lose their homes due to enforcement actions, they can be admitted to the Po Tin Transit Centre in Tuen Mun through referrals by BD, while they wait for eligibility vetting for further rehousing or look for alternative accommodation themselves. If these tenants have stayed in the Transit Centre for three months and passed the "homeless test", subject to fulfillment of eligibility criteria for public rental housing ("PRH"), the Housing Department will arrange for their admission to Interim Housing³ and application for PRH.

² Source: [LC Paper No. CB\(1\)367/12-13\(03\)](#)

³ The Hong Kong Housing Authority provides Interim Housing units in Shek Lei, Kwai Chung and Po Tin, Tuen Mun.

6. If BD's enforcement action involves relocation of tenants, BD will closely liaise with the Social Welfare Department, the Home Affairs Department and the Housing Department to provide assistance to the affected tenants. Since December 2011, BD has also been implementing an assistance programme endorsed by the Steering Committee on Community Care Fund to allocate one-off relocation allowance⁴ to tenants who have to move out of illegal domestic premises in industrial buildings due to BD's enforcement actions. As at end-November 2016, BD has approved 143 applications for the allowance, with 211 beneficiaries.⁵

Major views and concerns expressed by Members

7. Issues relating to enforcement actions against illegal domestic premises in industrial buildings have been discussed at the meetings of the Panel on Housing and the Subcommittee on the Long Term Housing Strategy ("LTHS").⁶ Members have also raised questions on the subject at LegCo meetings. The major views and concerns expressed by Members are summarized in the ensuing paragraphs.

Enforcement actions taken by the Buildings Department

8. Some Members criticized the Administration for not taking proactive enforcement actions against domestic SDUs in industrial buildings, which in turn had resulted in the increase of SDUs in Hong Kong. They urged the Administration to formulate a holistic package of measures with implementation timeframes to tackle the problem of SDUs in general, tighten enforcement actions and reinforce public awareness of the fact that using industrial premises for domestic purpose would pose a high risk to the tenants. These Members also opined that the government policy to eradicate domestic SDUs in industrial buildings had rendered the tenants concerned homeless.

⁴ The allowance is \$2,500 for a one-person household, \$5,500 for a two-to-three-person household, and \$7,100 for a four-or-more-person household.

⁵ Source: [LC Paper No. CB\(2\)401/16-17\(03\)](#)

⁶ Following the launch of the LTHS review by the Administration in September 2012, the Panel on Housing set up the Subcommittee at its meeting on 3 December 2012 for studying various issues covered in the LTHS review and making recommendations on LTHS.

9. The Administration stressed that it had been adopting a multi-pronged approach covering four areas, namely legislation, enforcement, support and assistance to building owners, and publicity and public education, to enhance building safety in Hong Kong. Since April 2012, BD had stepped up enforcement actions against domestic SDUs in industrial building and the associated unauthorized building works through large-scale operations. Appropriate enforcement actions against the irregularities identified would be taken in accordance with the relevant legislation. Owners who failed to comply with the statutory orders issued by BD were liable to imprisonment and a fine.

10. Some Members suggested that the Administration should conduct a survey on the total number of premises in industrial building converted for domestic use to facilitate enforcement. The Administration advised that to conduct such a survey, BD would need to enter the units of around 1 900 industrial buildings in Hong Kong for inspection, which would involve practical difficulties and substantial manpower and resources. Moreover, the situations observed would change from time to time.

Rehousing arrangements for displaced tenants

11. Members expressed dissatisfaction that BD had not taken into account the difficulties faced by individual displaced tenants, and had failed to provide them with adequate financial support and housing assistance when taking enforcement actions against domestic SDUs in industrial buildings. Some Members considered the eligibility and assessment criteria for the relocation allowance funded by the Community Care Fund overly stringent, rendering some displaced tenants homeless after moving out of their SDUs. There was also a suggestion that the Administration should consider offering rental subsidies to these displaced tenants awaiting PRH allocation, or relaxing the income and asset limits for PRH so that more tenants would be eligible for PRH.

12. The case of BD's execution of closure orders and carrying out of demolition works against SDUs in Wing Fung Industrial Building in Tsuen Wan on 29 April 2015, in which over 20 affected tenants and representatives of support groups petitioned at BD's Mong Kok office to request the authorities to "rehouse before clearance", had drawn wide public concern. Some Members suggested that the Administration should consider using Interim Housing units (not just those of Transit Centre) as temporary accommodation for the affected tenants.

13. The Administration explained that PRH and Interim Housing were both valuable housing resources of the community involving heavy public subsidy. It had to handle the rehousing cases of tenants of SDUs in industrial buildings in a fair and appropriate manner lest it would result in unfair treatment to PRH applicants who were waiting for flat allocation. Allowing tenants of SDUs in industrial buildings to be admitted to Interim Housing directly without passing the eligibility criteria would also convey a wrong message to the community that living in SDUs in industrial buildings was a shortcut for admission to Interim Housing and even PRH.

Conversion of industrial buildings to provide transitional accommodation

14. Some Members enquired about the progress made in respect of the Administration's plan to revitalize industrial buildings to facilitate the owners to convert industrial buildings into compliant transitional accommodation.

15. The Administration advised that it had examined the relevant regulatory regimes, including the Buildings Ordinance and land leases, and had approached owners of industrial buildings to understand the actual situation. Some owners had indicated that the conversion works would be very costly, rendering the conversion infeasible. Moreover, as most industrial buildings were situated in areas with active industrial operations, converting them for temporary domestic use might not be compatible with the existing land uses in the vicinity. Having taken into full consideration of the need to protect the well-being of residents and the need of the whole community, the Administration considered that allowing a wholesale conversion of industrial buildings for transitional accommodation use was not practicable.

16. Some Members expressed disappointment with the Administration's decision of not pursuing the option of allowing a wholesale conversion of industrial buildings for transitional accommodation use. They opined that the living environment of most SDUs and bedspace apartments were even more undesirable and dangerous than that in converted industrial buildings. Some other Members expressed support for the Administration's decision, as they considered it more appropriate to focus efforts on increasing land supply to address the problem of housing shortage.

Latest development

17. At the meeting of the Panel on Development to be held on 26 June 2017, the Administration will consult the Panel on a legislative proposal to strengthen enforcement actions against illegal domestic premises in industrial buildings.

Relevant papers

18. A list of relevant papers with their hyperlink is in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
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**Enforcement actions against
illegal domestic premises in industrial buildings**

List of relevant papers

Council/Committee	Date of meeting	Paper
Panel on Housing	7 January 2013	<p>Administration's paper on "Measures to Deal with Subdivided Flats" [LC Paper No. CB(1)367/12-13(03)]</p> <p>Minutes of meeting [LC Paper No. CB(1)618/12-13]</p>
Subcommittee on the Long Term Housing Strategy	30 May 2013	<p>Administration's paper on "Issues Relating to the Subdivision of Flat Units" [LC Paper No. CB(1)1117/12-13(03)]</p> <p>Information note on "Subdivided Flats in Hong Kong" prepared by the Research Office of the Legislative Council Secretariat [LC Paper No. IN22/12-13]</p> <p>Administration's follow-up paper [LC Paper No. CB(1)1371/12-13(03)]</p> <p>Minutes of meeting [LC Paper No. CB(1)143/13-14]</p>
	26 June 2013	<p>Administration's follow-up paper [LC Paper No. CB(1)1729/12-13(02)]</p> <p>Minutes of meeting [LC Paper No. CB(1)618/13-14]</p>

Council/Committee	Date of meeting	Paper
	16 July 2013	Administration's paper on "Revitalisation of Industrial Buildings" [LC Paper No. CB(1)1529/12-13(01)] Minutes of meeting [LC Paper No. CB(1)191/13-14]
Council meeting	10 June 2015	Hansard — written question (No. 14) on "Assistance Provided for Occupants of Sub-divisions of Flat Units in Industrial Buildings" (p. 12808-12812)
Panel on Housing	6 July 2015	Administration's paper on "Enforcement Actions against Subdivided Units in Industrial Buildings and Support Services for Affected Tenants" [LC Paper No. CB(1)1037/14-15(05)] Minutes of meeting [LC Paper No. CB(1)1263/14-15]
	9 January 2017	Administration's paper on "Long Term Housing Strategy Annual Progress Report 2016" [LC Paper No. CB(1)350/16-17(01)]
Council meeting	26 April 2017	Hansard — written question (No. 3) on "Rehousing of Residents Affected by Operations to Eradicate Domestic Sub-divisions of Flat Units" (p. 6454-6458)