

Issue 59/05

Unauthorised Building Works 非法僭建

Introduction 簡介

In March 2001, Buildings Department (“BD”) implemented a new enforcement policy of removal of unauthorised building works (“UBWs”). Ten years have passed (since the last policy), most of the UBWs which constitute a higher risk to public safety or an imminent danger (such as metal cages and flower racks on external walls) were removed.

In view of the improved condition in Hong Kong of the illegal building works, BD revised its enforcement policy against UBWs in April 2011 with a view to dealing with UBWs in a more comprehensive and systematic manner.

The revised enforcement policy (“Policy”) 2011 新強制執行政策

According to the Policy, the scope of ‘actionable’ UBWs is expanded.

‘Actionable’ items (可針對項目) include: -

- items constituting obvious hazard or imminent danger to life or property (e.g. illegal roof top structures in single-staircase buildings);
- items on the exterior (建築物外圍) of buildings, including those on roof tops and podiums as well as those in yards and lanes of buildings, irrespective of their level of risk to public safety or whether they are newly constructed;
- items in the interior (建築物內圍) of buildings constituting obvious hazard or imminent danger to life or property (e.g. building works associated with subdivided units (分契單位) with obstruction to means of escape and serious water seepage causing deterioration of structural members or overloading problem);

- new items, irrespective of the date of completion of the building, where such items were carried out;
- major standalone items (大型獨立設施);
- items in or on buildings, constituting a serious health or environmental nuisance (e.g. such as misconnection of drainage systems);
- items identified in buildings or groups of buildings targeted for large-scale operations (大規模行動); and
- unauthorised alterations to or works in the green and amenity features of a building (e.g. balconies, sky gardens and podium gardens) for which exemption from calculation of gross floor area was granted by the Building Authority.

For the 'actionable' items listed above, BD will issue **Statutory Removal Orders** (法定清拆令) and register the orders against the relevant property titles (在田土廳登記).

For other items of UBWs which do not fall within the list of 'actionable' items for issuing statutory removal orders, BD may issue **Statutory Warning Notices** (法定警告通知) registrable against property titles.

The Enforcement Priority Factors (執行緩急因素)

We identified the relevant factors mentioned in BD's Internal Guidelines on Prioritisation of Actionable Unauthorised Building Works ("Guideline") for determining enforcement priority.

According to the Guideline, BD staff members are advised to consider the following priority factors:-

- a) Are there any complaints or reports by the public made against the UBWs?

With reference to the paper on 'Measures to Enhance Building Safety in Hong Kong' submitted by the government to the Panel on Development of the Legislative Council for discussion on 13-01-2011 (shortly before the Policy became effective), BD is committed to actively responding to complaints.

- b) Are there any risk to public safety?

Items constituting obvious hazard or imminent danger to life or property, whether on the

exterior or in the interior of buildings, were ‘actionable’ UBWs under the Policy.

c) What is the earliest date that the concerned UBWs was known to BD?

According to the Guideline, BD will consider the dates of issuance of warning notices or, where no warning notices were issued, the dates of inspection since 2005.

In general, the earlier ones should be accorded priority ahead of others.

d) How is the surrounding area of the building?

There are two main considerations:

(i) Height of a building

In general, UBWs in high-rise buildings have a higher priority than in low-rise houses as they can cause more severe injuries to pedestrians or third parties.

By the same token, UBWs on roof top are prioritized ahead of those in yard/lane.

(ii) Density of the area

UBWs in a densely populated urban area generally pose a higher risk as a larger group of pedestrians could be injured. Hence, they are of higher priorities.

Conclusion (法律結論)

This article provides a general outline of the revised enforcement policy and the enforcement priority factors. One can note the more aggressive and proactive nature of the policies newly adopted

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