

Buildings Department instigates prosecutions against owners not complying with notices under Mandatory Building Inspection Scheme

A spokesman for the Buildings Department (BD) today (December 29) gave an account of the progress for buildings with expired notices under the Mandatory Building Inspection Scheme ("notices") that have not been complied with. Following the announcement of actions against the 2 700 buildings that failed to comply with the expired notices in July this year (www.info.gov.hk/gia/general/202307/20/P2023072000267.htm), about 2 200 buildings have made progress in the past few months after the Government stepped up its follow-up actions. This indicates that most owners are willing to assume their maintenance responsibility but may need assistance throughout the process. The BD, together with the Home Affairs Department (HAD) and the Urban Renewal Authority (URA), will continue to provide full assistance to these owners to comply with the notices as soon as possible.

For the some 470 buildings with expired notices with no progress and reasonable excuse, the BD has instigated prosecutions against owners or owner's corporations (OCs) of about 110 buildings and will consider prosecuting the owners or OCs of the remaining 360 buildings.

Moreover, in order to reduce the risk to public safety from these buildings with expired notices, the BD has proactively initiated and completed special inspections of the external walls of about 170 buildings with potentially higher risk and immediately followed up the required emergency works. The spokesman emphasised that this special operation is aimed at the external walls of buildings and cannot replace the owners' responsibility in building maintenance and compliance with the notices. The owners or OCs concerned are still required to conduct inspection and repair works in respect of the common parts of buildings.

As of December 15, an overview of the compliance progress of the 2 700 buildings is tabulated below:

1. Cases with progress	No. of buildings (Approximately)
(a) Notices have been complied with	180
(b) Positive progress of inspection/repair works (e.g. registered inspectors (RIs) or contractors appointed / inspection or repair works being commenced or in progress)	1 020

(c) the BD/HAD/URA is providing assistance to owners to comply with the notices (including assistance to procure RIs, form OCs, resolve disputes among owners, etc.)	810
(d) Have been selected as Category 2 buildings under Operation Building Bright 2.0 (OBB 2.0) (Note) (i.e. the BD will exercise its statutory power in carrying out the inspection and repair works on behalf of the owners or OCs incapable to organise inspection and repair works on their own, with the cost be recovered from them afterwards)	190 (Some 90 of which have been assigned with consultants for inspections)
2. Superseding notices issued by the BD due to change in ownership, etc.	30
3. Prosecution proceedings instigated in the fourth quarter of this year	110
4. Cases to be considered for instigating prosecutions (the BD/HAD/URA will provide further assistance to cases with no progress or response according to the actual situation and difficulties encountered. In case there is still no progress, the BD will consider instigating prosecution proceedings)	360
Total	2 700

For the some 470 buildings with expired notices with no progress and reasonable excuse, the BD has instigated prosecution proceedings against owners or OCs of about 110 buildings and has issued summonses to about 20 buildings since the fourth quarter this year. Among which, the owners of two buildings have been convicted and fined about \$4,500 and \$3,100 by the Magistrates and the remaining cases are pending hearings scheduled by the Court. For the other 360 buildings with expired notices with no progress and reasonable excuse, the BD, in collaboration with the HAD and the URA, will continue to provide further assistance to the owners or OCs. In case there is still no progress, the BD will consider instigating prosecution proceedings. Upon reviewing the Buildings Ordinance in the future, the Government will consider streamlining prosecution procedures against the expired notices (e.g. by means of issuing fixed penalty notices in lieu of court hearings) and increasing fines in order to enhance its deterrence. The Government has earlier indicated that it will put forward the legislative amendments for public consultation within next year.

The spokesman said that under the leadership and co-ordination of the Development Bureau, the tripartite standing communication mechanism amongst the BD, the HAD and the URA will continue to be strengthened, and provide information and support through proactive contacts with owners or OCs,

organising district briefings, etc.

In the past few months, the three parties have actively involved in the community and jointly organised nine district briefings from September to December in Sham Shui Po, Kowloon City, Yau Tsim Mong, Central and Western, Wan Chai, North, Tsuen Wan, Wong Tai Sin and Eastern districts to explain the procedures pertaining to compliance with the notices, formation of OCs and application for subsidies from the URA. Members of the public may keep track of the information and watch the briefings online (elearning.bd.gov.hk/video-list/).

The Government is also reviewing with the URA about the workflow of the OBB 2.0 at its various stages and exploring different options to assist owners or OCs who have applied for subsidies to expedite the commencement of inspection and repair works (e.g. streamlining the procedures for engaging RIs) and providing more specific and detailed indicators and milestones over the progress of works (e.g. the indicator and milestone for engagement of RIs and tendering of registered contractors, etc.) for owners or OCs to follow. These measures are targeted to be announced in the first quarter of 2024.

The spokesman reminds that it is the building owners' responsibility to ensure that their properties are well maintained and in safe condition, including conducting regular inspections and timely repair of their properties. Owners may be held criminally and civilly liable for any damage to properties or casualties due to building dilapidation. Owners are required to appoint RIs to carry out the prescribed inspections and repairs, otherwise they will not be regarded as complying with the requirements of the Mandatory Building Inspection Scheme (MBIS). The list of RIs is available on the BD website:

[www.bd.gov.hk/tc/resources/online-tools/registers-search/registrationsearch-disclaimer.html?reg_type=RI\(A\),RI\(E\),RI\(S\)](http://www.bd.gov.hk/tc/resources/online-tools/registers-search/registrationsearch-disclaimer.html?reg_type=RI(A),RI(E),RI(S))

Members of the public can find details of the MBIS on the BD website (www.bd.gov.hk/en/safety-inspection/mbis/index.html), the BD's Chatbot Function "Ah Build" and mobile application "MBIS/MWIS – Quick Guide for MBIS/MWIS".

Note: The Government injected \$6 billion for the URA to implement OBB 2.0 to subsidise eligible owners in co-ordinating inspection and repair works in respect of common parts under the MBIS. Buildings that are able to co-ordinate the necessary works among themselves are considered as Category 1 buildings. For Category 2 buildings, the BD will exercise its statutory power in carrying out the necessary inspection and repair works on behalf of the owners, with the cost to be recovered from them after completion of works. Eligible owners can apply for an OBB 2.0 subsidy to reimburse for part or all of the cost of the works.