

Contractor and its technically competent person given suspended jail sentence and community service order respectively for material deviation from works shown in approved plan and carrying out works in dangerous manner

A registered specialist contractor (sub-register of demolition works category) (RSC) and its technically competent person (TCP), who had deviated in a material way from demolition works shown in a plan approved by the Buildings Department (BD), and carried out the works in a dangerous manner, were found guilty of offences under the Buildings Ordinance (BO) (Cap. 123) and were sentenced to two months' imprisonment suspended for 36 months and a community service order of 240 hours respectively at the Eastern Magistrates' Courts on September 9.

The case involved a fatal incident that occurred at a demolition site on Robinson Road on July 7, 2022. A worker fell from the roof floor to the ground floor through floor openings and died as a result of the incident. An investigation by the BD found that the RSC had failed to comply with the plan approved by the BD. Specifically, no plastic refuse chute had been erected through the openings for debris removal, no railings were installed around the floor slab opening and no warning signs were in place to prevent workers from entering the work area before demolition commenced, contravening section 40(2A)(b) and section 40(2B)(a) of the BO. Pursuant to section 40(5) of the BO, the TCP employed by the RSC, who was directly concerned in the demolition works, permitted the commission of the above offences was deemed guilty of such offences. The BD instigated prosecution action against the RSC and the TCP last year. Both were convicted at the Eastern Magistrates' Courts on August 22. The RSC, i.e. the sole director and authorised signatory of the RSC, and the TCP were sentenced to two months' imprisonment suspended for 36 months and a community service order of 240 hours respectively on September 9.

A spokesman for the BD said today (September 23) that contractors should carry out building works in accordance with the approved plans, provide adequate precautionary measures before the commencement of works, and carry out the works in accordance with the BO to ensure site and public safety.

Pursuant to section 40(2A)(b) of the BO, any person for whom any prescribed inspection or building works or street works are being carried out and any authorised person, registered structural engineer, registered geotechnical engineer, registered inspector, qualified person, registered general building contractor, registered specialist contractor or registered minor works contractor directly concerned with any such inspection or works

who, diverges or deviates in any material way from any work shown in a plan approved by the BD shall be guilty of an offence and liable on conviction to a fine of \$1,000,000 and to imprisonment for three years.

Pursuant to section 40(2B)(a) of the B0, any person directly concerned with any prescribed inspection, site formation works, piling works, foundation works or other form of building works, who carries out or has carried out such inspection or works, or authorises or permits or has authorised or permitted such inspection or works to be carried out, in such manner that it causes a risk of injury to any person or damage to any property, shall be guilty of an offence and liable on conviction to a fine of \$1,000,000 and to imprisonment for three years.

Moreover, pursuant to section 40(5) of the B0, any person, being a person directly concerned in or with any building works or street works, who permits the commission of any offence specified in this section shall be deemed to be guilty of such offence and shall be liable to the penalty prescribed therefor.