

# Contractor heavily fined for material deviation from works shown in approved plan and carrying out works in dangerous manner

A contractor, who had deviated in a material way from the excavation and lateral support works shown in the plan approved by the Buildings Department (BD), and carried out the works in a dangerous manner, was found guilty of offences under the Buildings Ordinance (BO) (Cap. 123) and fined a total of \$400,000 at the Eastern Magistrates' Courts last week.

The case involved a fatal accident which occurred at a construction site in Happy Valley on April 27, 2020. A worker who was operating an excavation machine to remove building materials from the site died after he was hit by a falling metal strut. Investigations by the BD found that the metal strut formed part of the excavation and lateral support works but was not properly welded, and the sequence of the works was not in accordance with the approved plan.

The contractor responsible for the excavation and lateral support works has contravened sections 40(2A)(b) and 40(2B)(b) of the BO in that it deviated in a material way from the works shown in a plan approved by the BD, and had carried out the works in such a manner as was likely to cause a risk of injury to persons or damage to the property. Hence, the BD instigated prosecution action against the contractor in April 2021. The contractor was convicted and fined \$250,000 for contravening section 40(2A)(b), for material deviation, and \$150,000 for contravening section 40(2B)(b) for carrying out the works in a dangerous manner respectively for the offences on September 30.

A spokesman for the BD said today (October 6) that the contractor should carry out the building works in accordance with the approved plan, 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 Authorized 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 Building Authority 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(2B)(b) of the BO, 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 as is likely to cause 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.