

LCQ14: Building safety

Following is a question by the Hon Tony Tse and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (December 2):

Question:

On the 15th of last month, a fire broke out in a 69-year-old tenement building in Yau Ma Tei, resulting in more than 10 casualties. It has been reported that the said building is one of those which have not formed an owners' corporation (OC) or any residents' organisation, and have not engaged any property management company (PMC) ("three-nil buildings"). The owners of that building have not yet complied with the statutory notices for mandatory building inspection and mandatory window inspection issued to them by the Buildings Department (BD) two years ago. Moreover, the Fire Services Department (FSD) and the BD had not, prior to the fire incident, inspected the building nor issued any Fire Safety Directions (Directions) to the owners of that building pursuant to the Fire Safety (Buildings) Ordinance (Cap. 572) to require them to enhance the fire safety measures of the building to a level that meets the modern fire safety standards. Regarding building safety, will the Government inform this Council:

(1) of the latest progress of the enforcement of Cap. 572 by the FSD and the BD, including the respective up-to-date numbers of (i) buildings inspected, (ii) Directions issued and their state of compliance, (iii) prosecutions instituted, and (iv) convictions; the criteria adopted for deciding the priority in building inspections; the expected date for completion of inspection of all target buildings;

(2) of the latest progress of (i) the Mandatory Building Inspection Scheme (MBIS) and (ii) the Mandatory Window Inspection Scheme (MWIS) implemented by the BD, including the respective up-to-date numbers of (a) statutory notices issued and their state of compliance, and (b) law enforcement actions taken against non-compliant owners;

(3) of the respective staffing establishments of the FSD and the BD for performing the duties mentioned in (1) and (2), and whether it has assessed if such manpower is adequate; if it has assessed and the outcome is in the negative, whether it has plans to (i) employ additional manpower and (ii) increase outsourcing to expedite the work progress;

(4) of the latest progress and effectiveness of the Government's efforts on assisting three-nil buildings in establishing OCs and engaging PMCs; the Government's measures, upon learning that it is unlikely for a building to establish an OC or engage a PMC, to ensure compliance with the Directions or statutory notices by the owners of that building; and

(5) as there are views that owners do not comply with the Directions or

statutory notices in a timely manner because improvement works are costly, the fines for non-compliance are disproportionately low and the Government does not institute prosecutions after a long time, whether the Government will expedite the prosecution work and raise the penalties?

Reply:

President,

The Fire Safety (Buildings) Ordinance (Cap. 572) (the Ordinance) stipulates that composite and domestic buildings which were constructed on or before March 1, 1987, or with the plans of the building works first submitted for approval on or before that day (target buildings), must be enhanced to meet modern fire protection requirements. Under the Ordinance, the enforcement authority on fire safety measures in relation to planning, design and construction of buildings is the Director of Buildings; while the enforcement authority in relation to fire service installations and equipment (FSIs) is the Director of Fire Services. The Fire Services Department (FSD) and the Buildings Department (BD) will issue Fire Safety Directions (Directions) to owners and/or occupiers with regard to fire safety measures of buildings under their respective purview and specify the required fire safety improvement works.

Before issuing any Directions, the FSD and the BD will deploy officers to conduct joint inspection of the target buildings. Direction(s) will be issued to owners and/or occupiers in light of the actual condition of the building and in accordance with the Ordinance, requiring them to provide appropriate FSIs and/or carry out works in relation to fire safety construction, with a view to enhancing the fire safety standards of their buildings.

In respect of building management, the Home Affairs Department (HAD) has been encouraging and assisting owners in forming appropriate residents' organisations, such as owners' corporations (OCs) for effective building management. In this connection, it is noteworthy that information reveals the tenement building in which the Yau Ma Tei fire incident occurred on November 15, 2020 is under single ownership, which does not involve the coordination problems encountered by owners or occupiers of "three-nil buildings".

Having consulted the relevant bureau and departments, our consolidated reply to the Hon Tse's question is as follows:

(1) There are about 13 500 target buildings regulated under the Ordinance. Since the Ordinance came into force in July 2007, the FSD and the BD have been conducting joint inspections on these target buildings in stages according to the plan. 10 500 old target composite buildings (TCBs) will be inspected in the first stage, and 3 000 target domestic buildings (TDBs) will be inspected in the second stage. The two departments are now conducting the first stage of inspection.

As at end of October 2020, the FSD and the BD have inspected 9 702 TCBs,

and have issued Directions to 8 447 TCBs. The relevant work progress is tabulated below:

	FSD	BD
No. of Directions issued to owners and/or occupiers (see note 1)	208 892	67 751
No. of Directions complied with by owners and/or occupiers/ discharged (see note 2)	84 139	18 596
No. of summons served on owners and/or occupiers	1 089	280
No. of cases of convicted owners and/or occupiers	992	196

In respect of the numbers of Directions issued to owners and/or occupiers, the FSD has issued over 208 000 Directions to owners and/or occupiers. At present, over 84 000 Directions have been complied with by owners and/or occupiers or discharged (i.e. Directions which do not require follow-up actions), which makes up to 40 per cent; and a 27 per cent on the BD's side.

The FSD and the BD will select a certain number of target buildings for inspection each year, taking into account various factors including building age and fire safety risk. The two departments will continue their inspection of the remaining target buildings in light of the actual circumstances. The second stage of inspecting target domestic buildings will commence upon completion of the first stage inspection.

(2) As at end of October 2020, the progress of the implementation of the Mandatory Building Inspection Scheme (MBIS) and the Mandatory Window Inspection Scheme (MWIS) by the BD is as follows:

	MBIS	MWIS
No. of target buildings with statutory notices issued	5 497	10 119
No. of statutory notices issued	83 973	540 193
No. of statutory notices discharged	53 177	494 787

The BD will first issue warning letters to owners of non-compliance cases, urging them to comply with the statutory notices as soon as possible. If the statutory notices are still not complied with, the BD may serve fixed penalty notice (for MWIS only) to and instigate prosecution against the

owners.

As at end of October 2020, the BD has issued about 40 900 warning letters and has instigated about 2 160 prosecutions against owners who failed to comply with MBIS notices; and has issued about 122 800 warning letters and about 6 800 fixed penalty notices as well as instigated 94 prosecutions against owners who failed to comply with MWIS notices.

(3) The task forces of the FSD and the BD are responsible for enforcing the Ordinance, which comprise 210 and 104 staff from the FSD and the BD respectively. The task forces are responsible for enforcing the Fire Safety (Commercial Premises) Ordinance (Cap. 502). In enforcing the above ordinances, the FSD and the BD have not outsourced their work as the work involves enforcement and prosecution.

The work under MBIS and MWIS are performed by 194 professional and technical staff of the BD's Mandatory Building Inspection Sections. Moreover, the BD has contracted out the administration work of issuing statutory notices to building professionals consultancy. The BD would engage the consultancy for assisting in implementing the relevant work in accordance with the actual need.

The FSD and the BD will closely monitor the workload of staff, and suitably review relevant staff establishment and if necessary, apply for resources under the established mechanism for the effective implementation of relevant enforcement work.

(4) The Government has been proactively providing assistance to old buildings owners with regard to coordination among them.

In respect of assisting "three-nil buildings" in forming OCs:

(i) The HAD has launched three phases of "Building Management Professional Advisory Service Scheme" ever since 2011. Under the Scheme, property management companies will be engaged to assist owners of old buildings in need, in particular those of "three-nil buildings", to establish or re-activate OCs. As at September 2020, the Scheme has successfully assisted the owners in establishing/ reactivating 540 OCs, and helped 364 buildings to apply for maintenance loans/ subsidy schemes, as well as 269 buildings to engage engineering consultant companies/ service contractors. The HAD will regularise the Scheme in order to sustain the support for "three-nil buildings".

(ii) Moreover, the HAD has launched the "Resident Liaison Ambassador Scheme" since 2011, and recruited owners or tenants who live in "three-nil buildings" of 30 years or above as Resident Liaison Ambassadors, engaging the residents in discussion and handling daily building management matters. As at September 2020, the Scheme has successfully recruited over 3 000 ambassadors and, with their assistance, 493 OCs have been established.

In respect of assisting "three-nil buildings" in complying with the

Directions:

(i) The FSD and the BD will refer the lists of target buildings without OCs to the HAD so that the latter could assist the owners of the buildings in forming OCs and provide advice on the building management matters.

(ii) After issuing the Directions, the FSD will proactively promote and recruit Building Fire Safety Envoys and Fire Safety Ambassadors in "three-nil buildings". The purpose is to enhance fire precaution awareness among residents and facilitate the coordination of future projects on the upgrading of FSIs in those buildings.

(iii) The BD will arrange its in-house Social Services Teams to provide further support to those in need, including coordinating residents of the buildings in carrying out the required inspection and works, assisting them in applying for financial assistance schemes as appropriate, etc.

(iv) The Government also offers technical support, and adopts a flexible and pragmatic approach in handling individual cases without compromising basic fire safety. Case officers from the FSD and the BD will also meet the owners concerned from time to time to explain the contents in the Directions and assist them in solving potential problems associated with the works. The FSD has currently launched various facilitation measures for the owners. For instance, the "Improvised Hose Reel System" has been introduced to buildings of three storeys or less, sparing the installation of fire service water tanks and pumps, whereas in the case of buildings of four storeys or above, the capacity requirements for fire service water tanks have been lowered.

(v) In cases where owners of the target buildings need even more time to prepare for and carry out the improvement works, the FSD and the BD will, provided that building and fire safety are not compromised and under reasonable circumstances, duly consider their applications for extending the compliance period of the Directions, in the light of the justifications provided and/or the scale of works involved and so forth.

(vi) In terms of financial support, the Government, the Hong Kong Housing Society and the Urban Renewal Authority (URA) have been offering multiple financial subsidy schemes to owners in need, with a view to assisting private building owners in maintaining and repairing their buildings. The subsidy schemes include the "Building Safety Loan Scheme", "Building Maintenance Grant Scheme for Needy Owners", etc. Fire safety improvement works pertaining to the Ordinance have been incorporated into the list of works eligible for subsidies or loans under those schemes.

(vii) To further assist owners of old buildings, the Government, in partnership with the URA, implemented the \$2 billion Fire Safety Improvement Works Subsidy Scheme (FSWS) since 2018 to subsidise owners of eligible old TCBs in carrying out the required fire safety improvement works in complying with the requirements pursuant to the Ordinance. Subsequently, the Government has further injected \$3.5 billion to FSWS. It is anticipated that FSWS could benefit around 6 000 to 6 500 buildings. On the other hand, the Government,

in partnership with URA, has also implemented "Operation Building Bright 2.0" in 2018, providing technical and financial assistance to eligible building owners.

(5) The Government aims at assisting owners in complying with the relevant Directions and statutory notices through measures and assistance in various aspects (such as those mentioned in (4) above). For individual serious cases (such as repeated offenders or those who fail, without reasonable excuse, to comply with the Direction or the statutory notice), relevant departments will consider taking enforcement actions. In enforcing the Ordinance, if the owner or occupier fails, without reasonable excuse, to comply with the Direction, the enforcement authorities may apply to the magistrates' court for a Fire Safety Compliance Order (FSCO), directing the owner or occupier to comply with the requirements in the Direction. If the Direction or FSCO is not complied with, a conviction to a fine may be imposed.

Furthermore, if the Direction or FSCO is not complied with by the owner or occupier, and if there could be substantial fire risks in the building, the enforcement authorities may apply to the District Court for a prohibition order, prohibiting occupation of a building or part of a building. If the prohibition order is not complied with, a conviction to a fine and imprisonment may be imposed.

In respect of the enforcement of the Ordinance and the implementation of the Schemes mentioned in part (2), the Government will closely monitor the judgment to be handed down by the courts for the cases, including whether the highest penalty would be imposed, so as to look into whether there is any need to conduct a review on penalty.

Note 1: Including Directions that have not expired.

Note 2: Directions that are discharged include Directions related to demolished buildings, as well as buildings that have been approved to adopt facilitation measures.