

LCQ3: Enhancing regulation of building works in private buildings

Following is a question by the Hon Rock Chen and a reply by the Secretary for Development, Ms Bernadette Linn, in the Legislative Council today (June 21):

Question:

It has been reported that part of a structural wall (commonly known as "core wall") in a unit of a private housing court in Tseung Kwan O is suspected to have been removed, and such alteration may affect the structural safety of the building. In this connection, will the Government inform this Council:

(1) given that under the Buildings Ordinance, applications to the Buildings Department (BD) are required for any works involving the removal of core walls in private buildings, of the respective numbers of the relevant applications received, approved and rejected by the BD in the past three years, and the reasons for such applications being rejected; of the respective numbers of persons arrested, prosecuted and convicted for failing to submit applications before carrying out the relevant works;

(2) given that the aforesaid incident was exposed by netizens only after the relevant video had been uploaded onto a property viewing website, and as private buildings are private places, how the authorities detect and combat illegal building works carried out in private buildings, and whether they will strengthen cyber patrols and enforcement efforts; and

(3) as there are views that Hong Kong does not have a mandatory licensing and registration system for the interior design industry, and hence it cannot guarantee that interior design proposals comply with the building safety requirements, whether the authorities will consider establishing a licensing and registration system for the industry, so as to enhance the safety standard of the relevant works and the professional image of the industry; if so, of the details; if not, the reasons for that?

Reply:

President,

My response to the three parts of the question from the Hon Chen is as follows:

(1) According to the Buildings Ordinance (BO) (Cap. 123), removal or alternation of structure is an alternation and addition (A&A) work which requires prior approval from the Buildings Department (BD). The numbers of applications received for structural A&A works by the BD in 2020 to 2022

ranged from around 1 800 to 2 200. The numbers of applications approved ranged from around 1 500 to 1 900, whereas the numbers of applications rejected ranged from around 40 to 70. Since a single application may involve different and multiple A&A works, the BD does not maintain separate statistics on applications on removal of structural walls. However, in order to endeavour to organise some general information within the short timeframe, the BD checked the cases processed last month, which showed that the BD approved a total of 17 applications for plans involving structural changes and additions to domestic units, one of which involved the removal of structural wall.

Except for exempted works, we regard any A&A works without the prior approval of the BD or not following the streamlined procedures under the Minor Works Control System as unauthorised building works (UBWs). The BD may issue a removal order under the BO requiring the demolition or rectification of the UBWs by the owner. The BD does not maintain separate enforcement statistics in respect of removal of structural walls. For reference, in the three years between 2020 and 2022, the BD issued around 8 200 to 16 300 removal orders yearly; the number of prosecution cases were around 2 800 to 3 600 yearly and there were around 1 600 to 2 100 convictions yearly. The prosecution and conviction figures may not correspond to the removal orders issued in the same year.

(2) Generally, the BD take enforcement action of the BO through large-scale operations or sampling inspections, reports from the public, media reports, as well as referrals by government departments. With recent experience learnt, the BD will also pay close attention to online information, such as videos promoting housing units and fitting-out services on social media. If the BD finds suspected UBWs, investigations will be initiated and appropriate actions will be taken proactively according to the findings.

Anyone may be subject to criminal prosecution if they breach the BO or its subsidiary regulations. Besides, if building professionals or registered contractors have been convicted by court of an offence relating to building works, or has been negligent or has misconducted themselves in building works, the BD may undertake disciplinary actions, including a reprimand, a fine or suspension from the registers kept by the BD.

(3) Interior design includes space planning, selection of materials and furniture, decoration and display, etc. These tasks per se do not necessarily involve construction works. We think that, regarding whether to enhance enforcement of this sector, we need to adhere to the risk-based principle, take into account effective deployment of enforcement resources, and avoid over-regulating which would hinder the development of that particular sector and even bring inconvenience to users of the public. We consider it more pragmatic to continue to focus on the regulation of works carrying certain risks, and the building professionals or registered contractors who carry out these works. The works I just mentioned are those works that require prior approval by the BD or minor works.

Another pragmatic and very important work is to enhance public education

and the law-abiding awareness of the sector. To this end, the BD will arrange talks with professional institutes about the points to note when carrying out interior fitting-out works. The BD will also step up publicity and education targeted at owners' corporations, the property management industry, and the interior design and fitting-out industry. Following this incident, we acknowledge that some members of the public may be concerned whether their homes have illegal A&A works, or that they do not know how to check the plans to determine the location of the structural walls. In this regard, the BD will soon launch a telephone hotline to receive and answer public inquiries on related matters. The BD will also arrange for those in need to visit its Building Information Centre and demonstrate how to obtain relevant building plans and understand relevant basic information therein, including how to distinguish between structural walls and non-structural walls. Talks will be held at the Building Information Centre and online on inspection of building plans.

Owners should consult building professionals before commencing interior fitting-out works to ensure that the works are carried out in accordance with the BO and its subsidiary legislations. Besides, owners and building professionals should check the terms of the deeds of mutual covenant and other relevant documents to see if any restrictions are specified therein, e.g. whether there is need to seek consent from the owners' corporations or property management agencies before they can conduct certain kinds of works.