

Qualified person heavily fined for contravening mandatory window inspection law

A qualified person (QP) who contravened the related law when performing mandatory window inspections was fined a total of \$75,000 at Eastern Magistrates' Courts this Wednesday (August 1). The convicted QP consisted of a registered minor works contractor and its director.

In July 2016, the Buildings Department (BD) issued notices under section 30C(4) of the Buildings Ordinance (BO) to the owners of a private estate in Po Man Street, Shau Kei Wan, requiring them to appoint a QP to carry out window inspections of their premises and supervise the required repair. From August 2016 to March 2017, a QP submitted a total of 97 certificates involving different premises to the BD, certifying that the window inspections of those premises had been completed.

Afterwards, in response to reports of improper repair at the premises of the estate, BD staff conducted an investigation which revealed that inspection of all of the 97 cases was not carried out personally by the QP, contravening the requirement under section 30E(4) of the BO.

The QP and its director were subsequently prosecuted for the offences under section 40(2A)(c) and 40(6) of the BO respectively for knowingly misrepresenting a material fact in the certificates submitted to the BD. They pleaded guilty to the charge in the plea hearing at Eastern Magistrates' Courts on July 5 this year and were totally fined \$75,000 on August 1, after the Court has considered their mitigation submission.

"Misrepresentation to the BD is a serious offence. The BD will conduct audit checks on certificates of window inspections received. Upon receipt of reports or arising from audit checks, the BD will conduct an investigation and take appropriate action against irregularities committed by the relevant persons, including instigating prosecution and/or disciplinary action," a spokesman for the BD said today (August 3).

Regarding the case in question, the BD is considering taking disciplinary action against the convicted QP involved.

Pursuant to section 40(2A)(c) of the BO, a QP who knowingly misrepresents a material fact in any plan, certificate, form, report, notice or other documents given to the BD for prescribed window inspection is punishable on conviction with a fine of \$500,000 and imprisonment for 18 months.

Moreover, pursuant to section 40(6) of the BO, where an offence committed by a body corporate is proved to have been committed with the consent or connivance of any director, manager, or other officer concerned in

the management of the body corporate, or any person purporting to act in any such capacity, he/she, as well as the body corporate, is guilty of the offence.