

A large, stylized rainbow graphic composed of multiple parallel diagonal stripes in the colors of the rainbow (red, orange, yellow, green, blue, purple, pink) runs from the top left towards the bottom right, framing the central text.

FREQUENTLY ASKED QUESTIONS

100
Questions

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**Related
Sections****A. Government Orders, Letters and Directions**

1. I have received an Order to remove the unauthorized structures on the rooftops of my building. What should I do?

3.2.2 (f)
3.3.1 (a)
4.2.2 (a)

A. Rooftop structures are commonly found Unauthorized Building Works (UBW). If they are within your private premises, you have to comply with the Removal Order.

If the rooftops forms part of the common areas of a building, then most probably all the co-owners would have also received a similar Removal Order. You should contact the Owners' Corporation (if any) or co-ordinate all the other owners to arrange for the removal of the unauthorized rooftop structures.

2. What should I do if I don't know whether I have any shares in the rooftops or not?

2.1.4
2.2
2.4

A. Anyone can search for the registered title of a private property at the Land Registry by paying a small fee. You can submit a request with the relevant details of the property to the Land Registry. If there is not a registered private title for the rooftops, then most probably they are common parts of your building. You can obtain such information by referring to the Deed of Mutual Covenant (DMC) which is also registered at the Land Registry. The DMC should give relevant details on the common parts and the undivided shares among owners within the whole building.

3. I have installed a shopfront extensions and air-conditioning plant over the pavement adjoining my small shop. Why is a Removal Order issued to me?

3.2.2 (f)
4.2.2 (a)

A. Structures erected over the pavement are Unauthorized Building Works (UBW) unless otherwise approved or exempted by the Building Authority.

Shopfront extensions and air-conditioning plants are no exception. Irrespective to the size of your shop, such features should not be placed on or project over any adjoining streets including the pavement.

Related Sections

4.2 Question 16

4. I have put down a deposit for purchasing an estate property and signed the Sales and Purchase Agreement. My solicitor then told me that after he had carried out a title search in the Land Registry, he found that there was an Order registered against the title requiring the repair of the common areas of the building. What are my options?

A. You should **always** seek advice from your solicitor on the alternative courses of action which may include the following:

Option 1 - You may refuse to complete the sales and purchase agreement (S&P) if the seller has not disclosed such fact to you prior to making the deposit.

Option 2 - The seller may, after consultation with the Owners' Corporation (if any), or co-ordinate with all the other owners, repair the common areas of the building. With an estimated schedule for the repair works, you and the seller may enter into an agreement accommodating in the S&P a delay of the transaction process until the order has been complied with.

Option 3 - You may proceed with the transaction but include a clause in the agreement to the effect that the seller will reimburse the cost of the repair works. Usually, the solicitor will set aside a certain amount of money payable by the seller for such purposes.

5. I have received a letter and a Fire Safety Direction from the Buildings Department (BD) (or Fire Services Department (FSD)) requiring me to carry out quite a number of improvements to the existing fire service installations (FSI) in my building. What should I do?

3.2.1 (c)
3.3.2
4.1.2 (b)
4.2.2 (f)

A. The majority of fire safety improvements required are minor works, such as replacing fire doors, removing metal gates, etc. For such works in your private premises, you are advised to appoint a Registered General Building Contractor to carry out. If the required works are in the common areas of the building, you are advised to liaise with all the owners, if an Owners' Corporation has not been formed, to carry out the works simultaneously.

For fire service installation works, such as works involving sprinklers, fire hydrants, hose reels, etc., you are advised to appoint a Registered Fire Service Installation Contractor (RFSIC) to coordinate and/or investigate the existing conditions of the FSI in your building and to carry out the required improvement works. For works which require prior approval by the Building Authority such as addition of water tank, staircase, etc., you should appoint an Authorized Person to coordinate and carry out the required improvement works. If you are not clear about the content of the required works or how to proceed, you are welcome to contact the case officer of the Fire Safety Section of the BD.

Related Sections

3.2.1 (f)
4.2.1
4.2.2 (b)
4.2.2 (c)
Appendix 9

6. **An Order from the Buildings Department (BD) has been issued to the co-owners of my building requiring investigation of the structural stability of canopies projecting over the adjoining pavement. What should I do?**

A. Under an investigation order, the co-owners are required to appoint an Authorized Person (AP) to coordinate the investigation works with the assistance of a Registered Structural Engineer (RSE). The investigation report with findings and recommendations will guide the selection of the course of action required e.g. proposed strengthening/repairs for ensuring the stability of the canopy. If the report is acceptable to the BD, then the AP/RSE should, on behalf of the co-owners, arrange and supervise the strengthening/repair works and to report to the BD upon satisfactory completion of such works for acceptance and discharge of order.

7. **My unit is under a flat roof which belongs to the co-owners of the building. Seepage of rainwater has caused concrete spalling at my ceiling for which I have received an Order to repair. Should I wait for the co-owners to repair the defective waterproofing first before I comply with the Order by repairing the ceiling? Otherwise, I may have to do the job again.**

3.2.1 (e)
3.3.1 (e)
4.2.1
4.2.2 (c)

A. You should arrange for the required repair works in your premises as soon as possible for safety reasons. At the same time, you should notify the co-owners to request for their urgent action in repairing the defective waterproofing layer in order to prevent recurrence of the same defect. If the co-owners do not act accordingly, you may have to instigate legal action against the co-owners by applying for a Court Order to force them to carry out the necessary repairs and also to reimburse you for the cost of repairing your ceiling.

8. **Someone knocked on my door and claimed that he was a contractor who could help me in repairing the building and meet the requirements of the Order issued by the Buildings Department. What should I consider?**

4.2.2 (c)
4.3.5 (a)

A. Repair works required under an Order should, in most cases, be undertaken by a Registered General Building Contractor (RGBC). If in doubt, you may consult an Authorized Person (AP) or clarify with the case officer of the BD whose telephone number can be found in the cover letter of the Order to assess such need. The extent and nature of the works to be carried out are factors to be considered.

You must also consider whether the extent of works involves common areas of your building or not. If yes, you will have to refer the contractor to the Owners' Corporation for consideration. A proper tendering procedure is required for the selection.

Related Sections

Question 8 (continues)

If the required works are wholly within your premises, you should check the status of the contractor by referring to the BD's website (www.info.gov.hk/bd). Depending on the extent and nature of the required works and the advice from the AP, you may need to call quotations from several RGBC and carefully consider their credentials before making the selection of contractor.

Generally speaking, you should be extremely vigilant to contractors who make cold calls at your flat to solicit businesses.

9. How can I know if the Buildings Department (BD) has issued any statutory Order against my flat (or my building)?

3.3.1 A. Such Orders are posted at the subject premises.

They are also sent to the registered owners by registered mail.

Orders will also be registered against the title of the property in the Land Registry. A land search at the Land Registry either with the assistance of your legal adviser or land search companies will reveal such Orders. However, you should be aware that time is required to register Orders and therefore, the search may not be a sure way to disclose the existence of newly issued orders.

10. I have just received a Removal Order from the Buildings Department (BD). How can I object to the Order? Can I appeal? Can I ask the BD to defer action or give me more time to comply with the Order?

3.3.1 A. In accordance with Section 44 of the Buildings Ordinance, you can lodge an appeal against an Order issued by the BD by serving your notice of appeal in writing directly to the Secretary to the Appeal Tribunal. Appeal must be received by him not later than 21 days after the date of the BD's Order sent to you by registered mail. The Notice of Appeal is a standard form available in both English and Chinese versions attached to the Order. You can also obtain a copy from the BD or download the same from its website (www.info.gov.hk/bd).

Once the Notice of Appeal is given, the BD shall withhold its enforcement action on the Order until the appeal is settled or withdrawn.

Related Sections

You will have to appear in person at the hearing of the Tribunal to explain your grounds for the appeal. The Tribunal can either uphold the Order, repudiate the Order or amend the Order and such decision is binding on both yourself and the BD. In case your appeal is rejected by the Tribunal, you may need to bear the cost for the proceedings. Therefore, do not use appeal as a means to procrastinate compliance action. You may end up spending a lot more money than complying with the Order right away.

You can also request the BD to extend the compliance period if the works required is complicated or there are other valid reasons. But whether your request is justified or found acceptable by the BD is purely its discretion based on factual considerations.

B. Large Scale Operations (Blitz, Coordinated Maintenance of Buildings Scheme (CMBS), etc)

11. I was told that my building had been selected by the Buildings Department (BD) for large-scale operation. What is it all about? What should I do? Will my building be blacklisted for future property transaction?

3.3.1 (g)
4.2.2 (g)
Question 12

A. The BD has since 1999 launched large-scale clearance operations against UBW, such as "Blitz" for clearing UBW mainly on external walls of buildings. Comprehensive action is taken against all such UBW in target buildings with a view to eliminate hazards to the public.

Since November 2000, the BD has also launched a Coordinated Maintenance of Buildings Scheme (CMBS) to coordinate 6 other relevant departments to survey the target buildings and assist the building owners to carry out necessary maintenance works in all aspects of building safety. Through the coordinated and comprehensive actions of various departments, owners or OC will be able to coordinate the required works involving different aspects of the building together with all the owners. Different requirements can be complied with all in one go which is usually more convenient and cost-effective.

The owners or the OC are strongly advised to take immediate action for complying with the Orders, advisory or warning letters or directions **voluntarily**.

Orders will be registered against the title of the property in the Land Registry and inevitably will come to the attention of potential property buyers.

Related Sections

3.3.1
4.2.2 (g)

12. What kinds of works are required to be carried out in the Coordinated Maintenance of Buildings Scheme (CMBS) and What is the BD's role in it?

- A. The purpose of CMBS is to facilitate building owners or the OC in taking comprehensive and coordinated improvement/rectification measures in all aspects of building maintenance.

An officer of the BD will be assigned as the central contact point for the owners or the OC. He or other officers in charge will give guidance on how to comply with orders, advisory letters, directions issued by various Government Departments including the Home Affairs Department, Fire Services Department, Electrical and Mechanical Services Department, Food and Environmental Hygiene Department, Water Supplies Department, Environmental Protection Department and Buildings Department (BD).

The required works may include removal of Unauthorized Building Works, repair to building defects both externally and internally, repair or replacement of lifts and escalators, overhauling of electrical and fire service installations, repair or replacement of water supply and drainage pipes, etc.

13. What are the benefits of being one of the target buildings of the Coordinated Maintenance of Buildings Scheme (CMBS)?

4.2.2 (g)
5.2.1 (c)

- A. Buildings selected for the CMBS generally lack proper maintenance and show significant signs of dilapidations in their building fabrics and building service installations. The owners or the OC might have difficulties in ascertaining the nature and extent of the repair/upgrading works to improve the safety and outlook of their buildings, let alone having to coordinate their execution. The CMBS helps facilitate the process through proactive participation of the relevant Government Departments.

Owners and OC of the target buildings will enjoy the free advice given by the appointed officer from the Buildings Department (BD) on the methods and procedures in pursuing the required works. Owners in financial difficulties may apply to BD for a loan under the Building Safety Loan Scheme for the carrying out the works.

14. An Authorized Person (AP) is appointed to co-ordinate works such as the removal of Unauthorized Building Works (UBW) in both common areas and individual units. Do I have to bear the overall cost of AP's service even no works have been carried out in my unit?

4.3.4 (a)

- A. The appointment of an AP to coordinate works for both common areas and individual units is to achieve an economy of scale and to allow the required works to be implemented in a systemic and effective manner. It is the sole

Related Sections

responsibility of the owner of a particular unit to rectify the irregularities in his own unit. A cost breakdown should be given by the AP for his service in relation to the common area and individual units. If there is no rectification works required in your unit, you may only need to bear the cost for the AP's survey of your unit as well as the apportioned cost for the AP's service on the common areas.

15. **My Unauthorized Building Works (UBW) have been there for a long time and still look safe to me. I have not received any Order for its removal. Why is it necessary for me to remove it under CMBS?**
- 3.2.2 (f) A. All UBW are illegal. They have not been approved by the Buildings Department (BD) and should be removed. It is unlawful to erect UBW irrespective of whether it looks safe or not. UBW causes structural hazards that may not be visible until it is too late. Whether an order has been issued to you for its removal or not, you should remove the UBW voluntarily and reinstate your unit to the originally approved conditions.
- 4.2.2 (g)

C. Unauthorized Building Works

16. **I want to sell my flat as soon as possible but an Order has been issued by the Buildings Department for the removal of Unauthorized Building Works (UBW) on the canopy of the building, which is commonly owned. The situation seems unresolvable as I have no direct control over the subject area where the UBW has been erected. What can I do to satisfy the potential buyers?**
- 4.2 A. As the canopy is a common area of the building, most probably all the co-owners would have received a similar Removal Order. You should therefore contact the Owners' Corporation (if any), or co-ordinate with all the other owners to arrange for the removal of the UBW. You should be very sure about the schedule for the removal of the UBW and the issuance of compliance notice by the BD before committing to the purchaser deadlines for lifting the Order.
- Question 4
17. **I have received a letter from the Buildings Department (BD) requiring me to remove "any" Unauthorized Building Works (UBW) in my unit, but there is no specific description about the UBW. How can I find out if there is any UBW in my flat?**
- 4.2.2 A. Usually, description of the subject UBW is clearly specified in the Removal Orders or advisory letters served. For any enquiries on the description about the UBW stated in the Order or letter, you may call the case officer of the

Related Sections

Question 17 (continues)

BD whose telephone number can be found in the covering letter of the Order or the advisory letter. Alternatively, you can consult a building professional (i.e. Authorized Person, Registered Structural Engineers, Registered Building Surveyors) to verify the extent of the UBW required to be removed.

Sometimes you may need to refer to the approved building records of your unit to verify the extent of existing UBW. Such records are available from the BD and the application form for viewing such plans can be obtained from the BD or downloaded from its website (www.info.gov.hk/bd).

18. What will happen if I ignore the Order to remove Unauthorized Building Works (UBW)?

3.3.1
4.1.7
4.2.2

- A. If you fail to comply with the requirements of the Order, the Building Authority may prosecute you under the Buildings Ordinance (BO). If convicted, you may be liable to a maximum fine of \$200,000, imprisonment for one year, and to a further fine of \$20,000 for each day during which your failure to comply with the Order has continued.

If the required removal and reinstatement works have not been completed by the due date, the Building Authority may, under the BO, employ a Government contractor to carry out the works on your behalf, and subsequently recover the cost of the works from you under the said Ordinance. A supervision charge of not less than \$8,000 will also be imposed on top of the cost of the works.

If you fail to settle the account, the Building Authority may register a certificate with the Land Registry against the title of your property. Legal action will then be taken against you to recover all the costs incurred. The Building Authority will only de-register the certificate when all costs, charges and interest due have been settled in full.

19. I suspect that someone is putting up a storeroom on the rooftops above my premises, which are common areas. Can I stop them?

2.4.1
3.2.2 (f)
4.2.2
5.2.1

- A. If UBW are in progress in the common areas, you should report the matter to the Buildings Department (BD) immediately. The persons erecting the UBW may be prosecuted under the BO. However, as the owners of the property, you have the responsibility to keep the areas free from UBW. If Removal Order is issued, the co-owners should try to complete the required removal works before the due date on the order lest the Government contractors will be engaged to carry out the works at the owners' costs.

Related Sections

Alternatively, you can bring this to the attention of the co-owners, the Owners' Corporation or the property manager. Under the provisions of the Deed of Mutual Covenant, an injunction from court can be applied to stop someone from using the common areas without prior authorization.

Property manager/caretaker should carry out frequent patrol and surveillances of the common parts of buildings. If you spot any UBW in progress in the common areas, it is always in your own interest to report to the BD and to take legal action against the culprits in the first instance.

20. I want to remove the rooftop structures which are currently occupied by trespassers, can I call the Police for assistance?

- 2.4.1 A. The Police will not normally take action in such circumstances unless there are criminal offences in the premises or the Police are assisting in the execution of Orders from court.
4.1.7

You should liaise with the Owners' Corporation (OC) or the property manager and demand the trespassers to leave. If the action comes to no avail, you should consider taking legal actions against the trespassers.

The BD will consider taking action against those UBW according to the current enforcement policy. Immediate enforcement action will be taken if the UBW poses an imminent hazard to the public or adjoining property.

If you succeed in gaining re-entry to the rooftops after the legal proceedings, you should ensure that the rooftop structures are removed and introduce measures to prevent recurrence of similar incidents e.g. improve surveillance and patrol by caretakers and guards.

21. I am the chairman of the Owners' Corporation (OC). How should I proceed with the removal of the Unauthorized Building Work (UBW) in my building, especially those projecting from the external walls?

- 2.1.4 A. You may consult your legal adviser and check the rights of OC under the Deed of Mutual Covenant of your building for taking action in this regard. Depending on the advice, you might take legal proceedings against individual owners who has erected UBW on the external walls or other common areas which may include unauthorized alterations to structural elements.
2.2
4.1.7
4.2.2 (g)
5.2.1

The Buildings Department (BD) currently implements "Blitz Operations" and "CMBS" on some target buildings to coordinate community efforts including the OC to clear irregularities in the buildings and improve maintenance standards. The OC may contact the BD for assistance in joining such large-scale clearance/maintenance operations.

Related Sections

3.2.2 (f)

4.3.4

5.2.1 (b)

22. I am about to purchase a flat. The building owner and agent had told me there were no unauthorized building works in the building and the flat. How can I verify?

A. The Building Information Centre of the Buildings Department (BD) keeps most of the approved building records of the existing buildings in Hong Kong. Anyone having legitimate reasons can apply to the BD for viewing the approved building plans, and to obtain a certified copy of the plan by paying a fee. Making reference to such records will enable you to ascertain whether there are unauthorized building works or not.

If you have difficulties in reading plans, you should engage a building professional to help you to search for such plans, inspect the premises concerned, and advise you whether there are any unauthorized extensions in the unit you intended to purchase.

23. There is a large podium roof outside my flat/unit. Can I erect a structure on the roof ?

3.2.2 (c)

3.2.2 (f)

A. The Buildings Ordinance stipulates that all building works in private buildings and lands require the submission of plans by an Authorized Person (AP) to the Buildings Authority (BA) for prior approval. Any building, construction, alterations and additions works to private buildings and lands without prior approval and consent by the BA are regarded as Unauthorized Building Works (UBW). Therefore, the erection of a structure on the podium roof will require submission to the BA for approval. If you wish to proceed with the idea, please consult an AP.

Furthermore, you should also refer to the assignment plans to verify whether you have the right or ownership of the podium roof.

24. There is an approved cockloft in my shop but the only access to it is through the internal staircase in my shop. My business is dropping and I want to let the cockloft out to reduce my overhead expenses. Can I form an opening in the wall of the main staircase of the building for an independent access to it and remove the staircase in the shop?

3.2.2(b)

3.4.2(a)(ii)

A. Staircases in most cases serve as means of escape in case of fire and require fire resisting construction to safeguard their designed functions. Forming new openings on staircase enclosure walls requires very careful and professional considerations. You should engage the service of an Authorized Person to give you advice in this regard. He will consider all relevant factors, viz. the overall structural implications, fire resisting construction, means of escape pattern and fire separation between different occupancies before recommending to you the viability of your proposed alterations.

Related Sections

Generally speaking, if the subject building is a single staircase building with 6-storey in height (excluding the cockloft), it is not permissible to open a new doorway at the staircase to serve the cockloft as such alteration would result in a 7-storeys building which would be in contravention with the requirement of single staircase building.

The AP may also need to engage the service of a Registered Structural Engineer to consider whether the subject part of the staircase enclosure wall to be removed is structural or not. He will also study the proposals of filling up the cockloft opening to maintain the required separation between the cockloft (now regarded as an additional floor) and the shop. The AP also need to consider if the resulting gross floor area, taken into account the proposed new filling up area, would not exceed the maximum permissible under the Building (Planning) Regulations.

Other considerations may include whether a protected lobby is required for the new opening, whether the total discharge capacity of the means of escape provisions in the building has been affected, and whether the newly proposed fire resisting doors would obstruct the exit route or not.

In any case, prior approval and consent from the Building Authority is required for the proposed building works.

D. Advertisement Signboards

25. An Order from the Buildings Department (BD) has been served to the co-owners of my building requiring investigation on the structural stability of signboards on the external walls of the building. However, the owner of the signboards could not be found. What can we do?

3.2.2 (g)
4.1.6
4.2.1

A. Normally, the owner of the signboard should be responsible for its removal. However, if the owner cannot be found and if the signboard is erected on common areas such as the external walls, the co-owners of the building will be responsible to carry out the required works. If the signboard is on private property, its owner will be held responsible.

You are advised to engage a contractor to remove the abandoned signboards at your own cost, as they would eventually become dangerous due to lack of maintenance.

26. The developer wants to put up a big advertisement signboard on the external wall of our building. Can we object?

3.2.2 (g)
4.1.6

A. If the developer retains an exclusive right to use the external wall, and the Deed of Mutual Covenant (DMC) confers no power on the owners to object, then it would be very difficult for the individual owners to raise objection.

Related Sections

Question 26 (continues)

However, erecting advertisement signboards (especially large-scale structure) on the external wall is considered as non-exempted building works under the Buildings Ordinance (BO). Prior approval and consent from the Building Authority (BA) should be obtained. If such works have not been approved by the BA, they are UBW and subject to enforcement actions.

27. There are some abandoned advertisement signboards and structures left on the external walls of the building, some of them may be dangerous. Who has the right to remove them and what are the procedures?

4.1.6 A. If the owner of the abandoned advertisement signboards cannot be found,
4.1.7 then the owners or the OC have to engage a contractor to remove them at
5.2.1 their own cost.

28. What can we do if our windows are obscured by signboards or the steel ties holding these signboards?

3.2.2 (g) A. You should first discuss with the owner of the signboard for modification of
5.2.1 the structures. If there is no result, you may lodge a complaint to the Buildings Department (BD) for an investigation. If a dangerous situation or serious health hazard is identified, BD may take appropriate action against the owner of the signboard.

E. Building Safety Loan Scheme (BSLS)

29. I was ordered by the Government to carry out some repair works (or removal of Unauthorized Building Work) to my building (or flat). What shall I do if I do not have the money? Will the Government give me subsidy?

Appendix 6 A. You may consider applying to the BD for the loans under Building Safety Loan Scheme. It provides loans to individual owners of all types of private buildings who may wish to obtain financial assistance in carrying out works for improving the safety of their buildings voluntarily or in compliance with statutory orders.

The scope of building works covered under the loan scheme includes improvements to structural and fire safety of buildings, removal of unauthorized building works and illegal rooftop structures, and maintenance and repair of slopes and retaining walls. Building owners can also apply for loans to cover expenses for repairing, and replacing lifts, fire service installations and equipment, electrical wiring, gas risers; repairing or replacing communal and underground pipe works.

Related Sections

Appendix 6

2.1.4

4.6

Appendix 6

30. What is the interest rate of Building Safety Loan Scheme (BSLS)? What is the longest period of repayment?

- A. There are interest-bearing and interest free loans. Interest-bearing loans, with interest charged at the no-gain-no-loss principle, are not means-tested. The current interest is set at 2% below the average best lending rate. Recipients of the Comprehensive Social Security Assistance and Normal Old Age Allowance can apply for interest-free loans. Applicants satisfying the low-income category criteria may also apply for interest-free loans.

Loans are repaid by equal monthly installments up to 36 months. In exceptional circumstances, the repayment period may be extended to 72 months or for an unspecified period until the transfer of title of the property or death of the borrower.

31. Are Owners' Corporations eligible to apply for loans under Building Safety Loan Scheme (BSLS)?

- A. No, Owner's Corporations (OC) are not empowered by the Building Management Ordinance to borrow loans from the BSLS. At present, OC can only coordinate applications for loans from individual owners after resolution of the following matters at the General Meeting of the OC:

- To agree on the repair works of the building concerned.
- To vet the tenders received and to select a contractor /contractors for carrying out the repair works of the building.
- To determine individual unit's contribution to the repair costs, with apportionment in accordance with the Deed of Mutual Covenant (if any), or the method agreed by the owners at the General Meeting.

The minutes of the General Meeting of the OC mentioned above, selected tender for the repair project, schedule showing individual unit's contribution to the repair cost, a copy of the Repair Order/ Investigation Order (if any), and particulars of the Authorized Person (AP) / Registered Structural Engineer (RSE) appointed to supervise the repair works should be submitted together with the application forms as supporting documents.

"Guidance Notes for the Owners' Corporation in Coordinating Loan Applications" can be obtained from the Buildings Department.