

Related Sections

3.2.2 (h)
4.1.5
Appendix 14

K. Nuisances

47. Why is asbestos hazardous to health? How can I detect and remove them?

- A. Asbestos is a natural mineral. When disintegrated or damaged by force, it releases very fine fibers which can float in the air for a long period of time. If inhaled, they may stay in the lungs of human body for causing chronic diseases and failure of lung functions. Asbestos was once widely used in building products such as floor tiles, insulation blankets, roof sheets, cement boards, parapet wall grating blocks, etc before the mid-1980s. Their uses have been prohibited by law.

Asbestos is likely to exist in old buildings more than 20 years of age, or in some unauthorized building works in the form of corrugated asbestos sheets. The Environmental Protection Ordinance requires that removal of asbestos should be carried out by registered asbestos contractors. To ascertain the presence of asbestos, you need to appoint registered asbestos contractors specialists who would collect samples of materials to be tested in laboratories.

48. The restaurant at G/F exhausts a lot of smelly fume every night, and its air-cooling tower is noisy. To whom should I address the complaint to and how can improvements be made?

- 3.2.2 (h)
5.2.4
5.2.6
- A. While the Food and Environmental Hygiene Department handles complaints on restaurants, the Environmental Protection Department deals with noise and air quality complaints.

If investigations by the two departments reveal that the noise and air quality generated by the restaurant are below standards, the restaurant will be required to rectify the situation. Otherwise, its restaurant licence may be affected and the operator may be subject to prosecution.

A proper exhaust duct or chimney may be constructed to improve the air quality. The air-cooling tower may be sound shielded or relocated to some other suitable place, or replaced with better quality ones to reduce nuisance to the public.

49. The air conditioner next door is generating excessive noise. To whom should I complain?

- 5.2.4
- A. The Environmental Protection Department (EPD) controls noise and air quality pollution issues.

The complainant may contact EPD hotline making a request for an investigation.

If the noise from the air-conditioners is from domestic buildings, you may contact the Police.

Related Sections

50. **Since Easter, there have been a lot of mosquitoes in my house. I suspect that they are coming from the adjoining construction site. To whom should I address the complaint to?**
- 5.2.6 A. The Food and Environmental Hygiene Department (FEHD) deals with complaints on breeding of mosquitoes.
51. **There is a construction site at the back of my building. I have been woken up everyday by the noises of the construction works. What can I do?**
- 5.2.4 A. The Environmental Protection Department deals with the noise pollution complaints generated from non-domestic uses. You may contact their hotline for an investigation.
- The permissible working hours for noise generating construction work is from 7:00 am to 7:00 pm every weekday. No such works are permitted on Sundays and public holidays. Works generating loud noises such as piling require a noise permit which would govern the operating time on each permissible day.
- Noise sensitive areas such as schools, elderly care centres and hospitals are subject to more stringent control.
52. **Debris fell from the adjoining construction or renovation site into our carports and damaged our cars. How should we pursue the matter?**
- 3.2.2 (j)
4.1.8 A. Firstly, you should stay away from the carports in case the problem persists.
- Falling objects may be a criminal offence. Call the Police who will gather the evidence in the first instance, then, make a prompt claim report to your car insurers. The insurers may take appropriate claiming procedures in accordance with the terms and conditions of your car insurance policy against the contractor of the adjoining site.
- At the same time, you may also make claims to the contractor of the adjoining site directly. You should also lodge a complaint to the Buildings Department (BD) which would send officers for an inspection to check against the safety provisions of the site.
53. **My neighbour has renovated his flat and changed the direction of the fall of its roof so that during the rainy days, water gets into my premises. What should I do?**
- 5.2.1 A. All roofs should have a proper drainage system. Surface water should not discharge into adjoining lots. You may lodge a complaint to the Buildings Department and request for an investigation. If the roof and the water discharge system are unauthorized building works, the Building Authority may take appropriate action against the adjoining owner.

Related Sections

4.6.3

4.6.5

54. I understand that more and more building management stop tenants from raising dogs in buildings. Since the Deed of Mutual Covenant has not made provisions for this, what should we do to implement this restriction?

A. The Owners' Corporation may call a special meeting inviting all the owners to attend and discuss the subject matter. If a quorum is successfully formed in the meeting and a resolution is passed to restrict the raising of dogs, then the building management can be authorized to set up relevant house rules and prohibit the raising of dogs on behalf of all the owners.

L. Alterations and Additions

3.2.2 (c)

4.3.4

55. Can I build a private staircase for access from my flat to the roof?

A. You should verify that you have the ownership over the subject roof. The proposed work is classified as an alterations or additions (A&A) to an existing building. As the owner of the flat and the roof, you have to engage an **Authorized Person (AP)** and a **Registered Structural Engineer (RSE)** to submit A&A proposals to the **Building Authority** for approval. The proposal should comply with the Buildings Ordinance and its allied regulations including other relevant legislations. After receiving the approval and consent to commence the works, you should engage a **Registered General Building Contractor (RGBC)** to carry out the works. Upon completion of the works, the AP, RSE and RGBC have to notify the BA through the submission of a certificate of completion.

56. Is it illegal to enclose balconies with windows or to replace the parapet walls with glass panels?

3.2.2 (i)

A. Some balconies are designed to have two sides open to form the lobby to the escape staircase. Some balconies are the green features that are designated as "non-enclosable areas" in the Deed of Mutual Covenant. Enclosing such balconies is not allowed and would be considered as unauthorized building works.

Balconies are mostly cantilevered structures. They are sensitive to additional loads particularly at their outer perimeters. Enclosing balconies would inevitably increase loads by adding parapet/enclosure walls and screeds on the floor and therefore not permissible in most cases. Using glass to protect against the danger of falling also requires special design by an Authorised Person (AP) or Registered Structural Engineer (RSE) and the installation of suitable components carried out by a Registered General Building Contractor under the supervision of such AP or RSE.

57. Can I erect a canopy or a cover to my flat roof to protect us against the falling objects?

3.2.2 (c)

A. It could be permissible but the proposed additions are limited in sizes and plans for the proposed building works should be prepared by an authorized person and submitted to the Building Authority for approval.

Related Sections

58. **Can I erect a green house or put a movable house or mobile units such as containers on my garden or flat roof?**
- 3.2.2 (c) A. A green house with or without enclosure walls, movable houses, mobile units, or movable containers are all considered within the definition of "Building Works". Erection or simply placing any of these structures on gardens or flat roofs involves addition of gross floor areas, site coverage and additional loads to existing structures and therefore requires prior approval and consent of the Building Authority. Otherwise, they are Unauthorized Building Works.
59. **Can I erect a metal flower rack on the external wall? Is there any size limit?**
- 3.2.2 (f) A. Projecting structures, such as metal cages and flower racks, constructed on the external walls of a building without the approval and consent from the Building Authority, have caused many serious or fatal accidents in the past. Prior to erecting a flower rack on the external walls, you should enlist the service of an Authorized Person to submit plans on your behalf to the Building Authority for his approval.
60. **Rainwater has been seeping through the top of my windows. The contractor has erected a small window eave made of corrugated steel to stop the seepage on the external wall. Is the overhang acceptable to the BD?**
- 3.2.2 (f) A. Such corrugated steel sheets are subject to wind load and may fail at typhoons causing life and limb danger. They are regarded as Unauthorized Building Works. You should adopt other alternatives to stop the water leakage.
61. **Can I put the condensers of my air conditioners on or hang them below the canopies?**
- 3.2.2 (i) A. Canopies are not designed to take such imposed loads. Putting condensers on or hanging them from the canopies are actually adding loads on to these structures, and is therefore not acceptable. Canopies are cantilevered and relatively high-risk structures. They could collapse without any sign of warning. Building owners must ensure that any canopies existing in their buildings are in good condition, free of any unauthorized building works, and do not have any additional loads.
62. **I own two adjoining units. Can I pull down the dividing wall to combine them?**
- 3.2.2 (c) A. You should seek advice from the building professionals who would check whether the wall is required for fire compartmentation and whether it is structural or not. In general, prior approval and consent from the Building Authority for the demolition of structural walls or fire resisting enclosing walls is required.

Related Sections

- 3.2.2 (d) **63. Can I construct a fish pond or even a swimming pool in my garden?**
- A. You should verify that you have the ownership over the subject land. In general, the construction of a fish pond or a swimming pool involve the excavation and erection of a new structure for retaining water. These works are regarded as building works under the Buildings Ordinance. Approval and consent from the Building Authority for such works are required.
- 3.2.2 (f) **64. Is it possible for me to construct planters and create level differences in my flat roof or roof to improve its appearance?**
- A. You should verify that you have the ownership over such roofs. Generally, there is no restriction on construction of planters on the flat roof or rooftops provided that the proposed planters will not overload the structure and the planters so installed will not reduce the effective height of the parapet walls, which are required to be at a minimum height of 1,100 mm. You should engage the service of a building professional to check the loading capacity of the flat roofs and rooftops before proceeding with the works.
- 3.2.2 (f) **65. Can I remove the kitchen enclosure wall and door for an open design?**
- A. Most kitchens in domestic units are placed adjacent to exit routes. Such kitchens must have a proper enclosure wall having at least 1-hour fire resistance period and a half-hour fire resistance door with self-closing device. Kitchens for restaurants and other commercial undertakings are also required to have appropriate fire-rated enclosure walls or fire shutters and doors irrespective of their location. You should seek professional advice if you wish to have an open kitchen.
- 3.2.2 (c) **66. Can I incorporate some level difference in my unit by using simple concrete fill?**
- A. If you want to create difference in levels in your unit by means of concrete platforms, you should ensure that the weight of the platforms will not overload the floor structure. For residential units, the design superimpose load on the floor is usually 3 kPa (60 pound/sq. ft.). Usually, this could allow a lightweight concrete fill of not more than 100mm thick. You should also be cautious that the platform will not reduce the effective height of protections for any openable windows such as guard rails or solid walls below the windows which should be at least 1,100 mm measured from the floor. In case of doubt, please seek advice from a building professional.

Related Sections

2.1.2
3.2.2(c)

67. I want to let my flat out as three separate units. Can I divide the flat with walls and put in toilets and kitchens?

A. You are strongly advised not to do so as it is unlikely that a flat can be subdivided without contravening the building regulations. Furthermore, the Deed of Mutual Covenant usually has provisions forbidding the subdivision of flats.

Usual contraventions encountered in subdivided flats include: overloading of structure by addition of partition walls and floor screeds for concealing drains; inadequate natural lighting and ventilations; and reduction in the standards of means of escape provisions and fire separations. Furthermore, the concealed drain pipes usually lead to leakage causing nuisance. Do not proceed with the idea until you have sound support from an authorized person and legal advisor.

68. I have engaged a contractor to carry out renovation work in the premises. The contractor has knocked down a very substantial concrete wall which I believe could be a structural wall, what should I do to verify and if necessary to rectify?

4.3.4

A. You should ask your contractor to stop work immediately and to seek the advice of a registered structural engineer as soon as possible. The Buildings Department keeps a list of the Registered Structural Engineers (RSE) which is available at its office and website, www.info.gov.hk/bd. If it is confirmed that a structural wall or a part of it has been removed, the appointed engineer might request for the immediate installation of shoring to stabilize the structure and provide the necessary details and method statement for the acceptance of the Building Authority for remedy.

69. I am a committee member of an OC. The OC wishes to upgrade the typical lobbies and G/F entrance of the building and to provide air-conditioning to these areas. Are the proposed works permissible under the Buildings Ordinance?

4.3.3 (c)
4.3.4

A. Upgrading of lobbies and ground floor entrance is usually considered as exempted works under the Buildings Ordinance if no structural alteration is involved. However, protected lobbies, fireman's lift lobbies and staircases are essential features of fire escape and access for the fireman. When upgrading works are involved in such areas, you are strongly advised to consult a building professional for advice in relation to your particular situation and to supervise the works.

Generally, care should be taken to ensure that the materials of the new finishes to be installed will not increase the fire risks, impede the fire resisting capacities or reduce the minimum widths required for such features. Furthermore, if external wall finishes are involved, new finishes should not be extending beyond site boundaries or encroaching on adjoining streets.

Installation of air-conditioning equipment may be permissible in such essential features subject to the following conditions:

Related Sections

Question 69 (continues)

- (a) The equipment does not contain high wattage/voltage components such as compressors. The internal units of split type air conditioners or the fan coil units of air conditioning systems that do not contain such high fire risk components are permissible.
- (b) Suitable fire resistant materials preventing the spread of fire are installed to protect the chiller pipes, air ducts and cables at positions where they pass through the enclosure walls of such essential features.

Extreme care should also be exercised in the course of such works with a view to eliminating fire risks.

70. To facilitate delivery of goods, I intend to knock down part of the external wall of my industrial unit, hang out an I-beam as a hoist for accessing the trucks from the street, is it legal? What should I consider?

2.1.4
4.3.4

- A. If you want to form a new street entrance into your unit for the delivery of goods, care should be given to ensure that the door opening is formed in a non-structural wall. The door(s) for the said opening should either be recessed back or opens inwards so that it would not obstruct pedestrian traffic using the pavement. Any hoisting installations must not project over the street and you should also seek advice from a structural engineer on how the hoist can be installed in order not to overload the structure to which the hoist is to be fixed. The subject alteration works should be submitted to the Building Authority for approval.

If such openings are to be formed above G/F, they should be protected for preventing the danger of falling. You should also check the Deed of Mutual Covenant to ensure that you have the ownership to that portion of the external wall where the opening is to be formed. Transport Department's requirements on loading and unloading for the specific areas of the street should also be taken into consideration.

The above is not applicable to the formation of new vehicular access.

71. I am the owner of a building. An operator of "home for the elderly" intends to rent the podium floors for the purpose. I have checked the approved plans and noted that the podium floors are for non-domestic uses. Is it legal for me to enter into a tenancy agreement with him for such operation?

3.2.2 (c)

- A. The premises used for the home for the elderly is regarded as domestic use. In this connection, prior approval from the relevant Government Departments, such as the Buildings Department, Planning Department and Lands Department for the proposed change in use should be obtained. Apart from the required approval in the change in use of the premises to be obtained by the operator, he must also obtain a licence from the Social Welfare Department prior to operating the "home for the elderly". You may request your solicitor to specify that it is the duty of the tenant to comply with relevant statutory requirements and to include any relevant terms and conditions in the tenancy agreement to protect your interest. You should also seek legal advice from your solicitor in respect of any possible conflict/implication between the DMC and the use of premises as "home for the elderly".