

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

DEVB(PL)099

Question Serial No.

Head : 82 Buildings Department Subhead (No. & title) :

1816

Programme : Buildings and Building Works

Controlling Officer : Director of Buildings

Director of Bureau : Secretary for Development

Question :

As mentioned in the "Matters Requiring Special Attention in 2011-12", the Buildings Department (BD) will take vigorous enforcement actions to remove unauthorised building works (UBWs). Currently, only the newly constructed UBWs and UBWs posing imminent danger to the building structure are removed. For those UBWs constructed in the past and affect only the views and public hygiene, the BD will register a charge against the properties concerned (charging order) in the Land Registry. This can neither deter the owners of the UBWs nor encourage them to take the initiative to remove the UBWs, because registering a charge will only affect the sale but not the letting of the properties. Moreover, the charge (charging order) is only shown in the Land Registry records of the properties concerned, which fails to alert prospective buyers of nearby properties also affected by the UBWs. As a result, the new owners of nearby properties will suffer great loss. In this connection, please explain how the Administration will tackle the problem.

Asked by : Hon. IP LAU Suk-ye, Regina

Reply :

The Government has recently completed a comprehensive review of the building safety policy, and will adopt a new approach to tackle unauthorised building works (UBWs). Under the new approach, the Buildings Department (BD) will extend the coverage of actionable UBWs to include unauthorised structures on rooftops and flat roofs as well as those in yards and lanes in respect of private buildings. The new approach will be implemented from 1 April 2011 onwards. The BD will take action against all actionable UBWs irrespective of their degree of risk to public safety. The Department will also continue its enforcement against other UBWs constituting obvious or imminent danger to life or property, new UBWs, UBWs under construction and actionable UBWs identified in target buildings of large-scale operations. It will issue statutory orders to the owners concerned requiring removal of the UBWs, and register

the orders at the Land Registry as an encumbrance of the property title. In the event that an owner fails to comply with the statutory order without reasonable excuse, the BD will consider instigating prosecution against the owner and carrying out the works required in default of the owner. A legal charge could be registered against the title of the property concerned after the BD has completed the defaulted works.

Regarding the properties with UBWs that are not subject to immediate enforcement action under the current enforcement policy against UBWs, warning notices are issued to the owners concerned and registered against the titles of the properties in question such that prospective purchasers or tenants can become aware of the existence of UBWs in the properties, thereby encouraging the owners to remove the UBWs voluntarily so as to avert the encumbrance registered against their property titles. Under the current enforcement policy, warning notices are usually issued on existing UBWs on rooftops and flat roofs and in yards and lanes which do not constitute imminent danger to life or property. With the implementation of the aforementioned new approach for tackling UBWs, statutory orders instead of warning notices will be issued to the owners to require removal of actionable UBWs. We anticipate that the new policy will create a much greater deterrent effect.

Signature _____

Name in block letters AU Choi-kai

Post Title Director of Buildings

Date 17.3.2011