Unauthorized Alterations and Additions
Buildings Ordinance Section 14

There may be occasions when clients approach authorized persons, registered structural engineers or registered geotechnical engineers to submit plans for building works already completed. This advises you on the action that the Building Authority (BA) would take if such plans were submitted.

No Retrospective Approval

2.   The BA has no powers to give retrospective approval or consent for unauthorized building works (UBW). Except for minor works commenced under the simplified requirements and building works exempted under section 41 of the Buildings Ordinance (BO), no person shall commence or carry out any building works without having **first obtained** the approval and consent of the BA pursuant to BO s14(1). BO s42(5) further provides that the powers of exemption are not applicable to section 14.

3.   In addition, pursuant to the inspection and certification of prescribed building or building works (commonly known as 'Household Minor Works Validation Scheme') under BO s39C, which come into operation on 31 December 2010, the prescribed building or building works, which are stipulated in Schedule 3 of the Building (Minor Works) Regulation, completed or carried out before 31 December 2010 may be certified upon inspection and retained for use. Owners of them may appoint building professionals or contractors under BO s39C(2) to carry out inspection (and for some minor works, alteration, rectification or reinforcement if required) and certify them under section 62 of the Building (Minor Works) Regulation. Upon such certification, the BA shall not serve a removal order under BO s24 or a warning notice under BO s24C in respect of the subject prescribed building or building works on the ground that they had been completed or carried out in contravention of BO s14(1). However, the legal status of such building or building works will remain unchanged (i.e. they will remain unauthorized) and the BA may take appropriate actions under the BO if their safety conditions have changed and become dangerous.

Powers of Disapproval

4.   For plans of **building works already completed** (other than minor works under the simplified requirements), the BA's position under the BO is as follows :

(a)   The submission will be rejected under **section 16(1)(a)** as it is not a proposal for approval and consent prior to the commencement of works.

(b)   The same will also be rejected under **section 16(1)(c)** because of the nature of the application in the Form BA 5 or BA 17, which relates to an application for building works "to be carried out" or for permission "to erect" respectively. It is not an application for approval and consent to structures already erected.

(c)   Furthermore, if the submission is the subject of an effective demolition order, it will be rejected under **section 16(1)(d)** for contravening the said order.

Advice to Clients

5.   Should a client contemplate pursuing building works (other than minor works under the simplified requirements or exempted works) without first obtaining approval and consent, you should draw his attention to the need for prior approval of plans and consent for commencement. The client should be firmly advised that commencing or carrying out any such building works without prior approval and consent may result in the BA :

(a)   serving an order under the BO requiring *inter alia* the demolition of such building works; and

(b)   prosecuting under the BO Part IV. On conviction, the offender could face a heavy fine and even a custodial sentence.

6.   In case the building works to be carried out are minor works, the client should be advised that the works can be carried out under the simplified requirements.

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