

LCQ21: Fire safety of "three-nil" buildings

Following is a question by Dr the Hon Priscilla Leung and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (December 2):

Question:

It has been reported that a fire broke out on the 15th of last month in a 69-year-old tenement building in Yau Ma Tei which lacks fire service equipment, causing more than 10 casualties. On the other hand, according to the Fire Safety (Buildings) Ordinance (Cap. 572), the fire safety measures of composite and domestic buildings which were constructed, or the plans of the building works of which were first submitted for approval, on or before March 1, 1987, are required to be enhanced to a level that meets modern fire safety standards. After inspecting such buildings, the Fire Services Department (FSD) and the Buildings Department (BD) will, depending on the circumstances, issue to the owners or occupiers concerned Fire Safety Directions (Directions), specifying the fire safety improvement works required to be carried out. However, the aforesaid tenement building is not among the nearly 10 000 buildings which have been inspected. The said building is one of those which have not formed an owners' corporation or any residents' organisation, and have not engaged any property management company ("three-nil" buildings). Regarding the fire safety of three-nil buildings, will the Government inform this Council:

(1) of the number of "three-nil" buildings inspected by FSD and BD as well as the number of those buildings whose owners or occupiers were issued with Directions, in the past five years; the respective numbers of those buildings in respect of which the relevant Directions have now been complied with or discharged;

(2) given that FSD and BD will, in the light of the aforesaid fire incident, embark on a special inspection exercise, whether the two departments will give priority to inspecting those "three-nil" buildings which have not yet been inspected, and introduce measures to assist the owners or occupiers concerned in complying with the Directions; and

(3) given that at its meeting held on November 16, 2016, this Council passed, after amending, a motion moved by me, and the motion included the proposal that the Government should amend Cap 572 to empower persons responsible in the Government to, under urgent circumstances, carry out improvement works on fire service installations for buildings which are unable to comply with the Directions, but the Government advised in response to the motion that the proposal was not feasible, whether the Government will consider afresh the proposal?

Reply:

President,

The Fire Safety (Buildings) Ordinance (Cap. 572) (the Ordinance) stipulates that composite and domestic buildings which were constructed on or before March 1, 1987, or with the plans of the building works first submitted for approval on or before that day (target buildings), must be enhanced to meet modern fire protection requirements. Under the Ordinance, the enforcement authority on fire safety measures in relation to planning, design and construction of buildings is the Director of Buildings; while the enforcement authority in relation to fire service installations and equipment (FSIs) is the Director of Fire Services. The Fire Services Department (FSD) and the Buildings Department (BD) will issue Fire Safety Directions (Directions) to owners and/or occupiers with regard to fire safety measures of buildings under their respective purview and specify the required fire safety improvement works.

Before issuing any Directions, FSD and BD will deploy officers to conduct joint inspection of the target buildings. Direction(s) will be issued to owners and/or occupiers in light of the actual condition of the building and in accordance with the Ordinance, requiring them to provide appropriate FSIs and/or carry out works in relation to fire safety construction, with a view to enhancing the fire safety standards of their buildings.

In respect of building management, the Home Affairs Department (HAD) has been encouraging and assisting owners in forming appropriate residents' organisations, such as owners' corporations (OCs) for effective building management. In this connection, it is noteworthy that information reveals the tenement building in which the Yau Ma Tei fire incident occurred on November 15, 2020 is under single ownership, which does not involve the coordination problems encountered by owners or occupiers of "three-nil" buildings.

Having consulted the relevant bureau and departments, our consolidated reply to Dr the Hon Leung's question is as follows:

(1) BD and FSD have not compiled statistics on "three-nil" buildings regulated under the Ordinance.

There are about 13 500 target buildings regulated under the Ordinance. Since the Ordinance came into force in July 2007, FSD and BD have been conducting joint inspections on these target buildings in stages according to the plan. 10 500 old target composite buildings (TCBs) will be inspected in the first stage, and 3 000 target domestic buildings (TDBs) will be inspected in the second stage. The two departments are now conducting the first stage of inspection. As at end of October 2020, FSD and BD have inspected 9 702 TCBs, and have issued Directions to 8 447 TCBs. Amongst which 452 TCBs have complied with the Directions issued by BD in relation to planning, design and construction of buildings. Another 334 TCBs have complied with the Directions issued by FSD in relation to FSIs.

In respect of the numbers of Directions issued to owners and/or occupiers, FSD has issued over 208 000 Directions to owners and/or occupiers. At present, over 84 000 Directions have been complied with by owners and/or occupiers or discharged (Note) (i.e. Directions which do not require follow-up actions), which makes up to 40 per cent; and a 27 per cent on the BD's side.

(2) In light of the risks exposed by the Yau Ma Tei fire incident on November 15, 2020, FSD and BD have embarked on a special exercise on November 23, 2020 with a target to complete the inspection of about 2 800 domestic or composite buildings that are of comparable age as the building concerned in the fire incident (namely, aged 60 or above) by the end of this year. The buildings targeted in the inspection are located across the territory, including Kowloon City, Yau Tsim Mong and Wan Chai districts where there are relatively more old buildings.

FSD and BD will, depending on the inspection findings as well as information gathered, take appropriate enforcement actions according to the relevant legislation against contraventions, so as to ensure fire and building safety. FSD would pay special attention to the obstruction to means of escape or locking up of exits, damaged FSIs, over-storage of dangerous goods, etc. FSD will also take enforcement actions in accordance with the Fire Services Ordinance (Cap. 95) and the Dangerous Goods Ordinance (Cap. 295), including instituting prosecution or issuing Fire Hazard Abatement Notices. BD would pay special attention to conditions of the common escape route and whether there are fire hazards in the buildings. BD would also issue statutory orders under the Buildings Ordinance (Cap. 123) to the owner concerned, requiring the removal of unauthorised building works or rectification of irregularities within a specified timeframe.

Various government departments have been proactively providing assistance of different forms to owners of old buildings, with a view to assisting them in complying with the Directions as soon as practicable.

In respect of the coordination among owners, the Government understand that the owners of old buildings (whether they are "three-nil" buildings or not) may encounter difficulties in coordinating fire safety improvement works. Therefore, FSD and BD will refer the lists of target buildings without OCs to HAD so that the latter could assist the owners of the buildings in forming OCs and provide advice on the building management matters. After issuing the Directions, FSD will proactively promote and recruit Building Fire Safety Envoys and Fire Safety Ambassadors in "three-nil" buildings. The purpose is to enhance fire precaution awareness among residents and facilitate the coordination of future projects on the upgrading of FSIs in those buildings. BD will also arrange its in-house Social Services Teams to provide further support to those in need, including coordinating residents of the buildings in carrying out the required inspection and works, assisting them in applying for financial assistance schemes as appropriate, etc.

In terms of technical support, the enforcement authorities will adopt a flexible and pragmatic approach in handling individual cases without

compromising basic fire safety. Case officers from FSD and BD will also meet the owners concerned from time to time to explain the contents in the Directions and assist them in solving potential problems associated with the works. FSD has currently launched various facilitation measures for the owners. For instance, the "Improvised Hose Reel System" has been introduced to buildings of three storeys or less, sparing the installation of fire service water tanks and pumps, whereas in the case of buildings of four storeys or above, the capacity requirements for fire service water tanks have been lowered.

In terms of financial support, the Government, the Hong Kong Housing Society and the Urban Renewal Authority (URA) have been offering multiple financial subsidy schemes to owners in need, with a view to assisting private building owners in maintaining and repairing their buildings. The subsidy schemes include the "Building Safety Loan Scheme", "Building Maintenance Grant Scheme for Needy Owners", etc. Fire safety improvement works pertaining to the Ordinance have been incorporated into the list of works eligible for subsidies or loans under those schemes.

To further assist owners of old buildings, the Government, in partnership with URA, implemented the \$2-billion Fire Safety Improvement Works Subsidy Scheme (FSWS) since 2018 to subsidise owners of eligible old TCBs in carrying out the required fire safety improvement works in complying with the requirements pursuant to the Ordinance. Subsequently, the Government has further injected \$3.5 billion to FSWS. It is anticipated that FSWS could benefit around 6 000 to 6 500 buildings.

(3) There is no provision in the Ordinance empowering FSD and BD to carry out works relating to improving fire safety measures for target buildings. Since undertaking fire safety improvement works would involve various feasible proposals and works arrangements (such as where the facilities or what alternative equipment should be installed), and the scale of the works and associated costs as well as the impacts to individual building owners would vary rather significantly depending on the proposals to be adopted, the owners of the buildings must discuss among themselves having regard to the building's circumstances and reach a consensus before the works are carried out. If the departments were to forcibly carry out the works, it could lead to many complicated disputes involving different owners or even litigation. In addition, fire safety improvement works would require subsequent maintenance. For instance, the owners of FSIs must, in accordance with the requirements of regulation 8 of the Fire Service (Installations and Equipment) Regulations (Cap. 95B), arrange annual inspection to ensure that the installations or equipment are in efficient working order.

Therefore, if the Government carries out the works on behalf of the owners, and subsequently recovers the cost of the works from the owners, the process will inevitably involve many legal and operational issues, for example, titles, protection of private property rights, use of public funds, subsequent repairing and maintenance of FSIs, etc.

The Government understands that, due to the lack of technical knowledge

and/or ability to coordinate, some owners may face certain difficulties in complying with the requirements of the Ordinance. In response to the suggestion of having the Government to carry out the works on the owners' behalf, the Government will carefully examine in detail if there is room to overcome the issues mentioned above, etc. The Government will not rule out any possibilities at current stage. However, the Government has to emphasise that it is owners' responsibility to timely repair and properly maintain private buildings, including carrying out the required fire safety improvement works to enhance the fire safety standards of the buildings according to the Directions.

Note: Directions that are discharged include Directions related to demolished buildings, as well as buildings that have been approved to adopt facilitation measures, etc.