

Qualified Person given suspended jail sentence and fined for contravening mandatory window inspection law

A qualified person (QP) was sentenced to 14 days' imprisonment suspended for one year and fined \$10,000 at Kwun Tong Magistrates' Courts earlier this month for contravention of the Buildings Ordinance (BO) when performing a mandatory window inspection. This is the first imprisonment penalty imposed on a QP in similar prosecution cases.

In December 2018, the Independent Checking Unit (ICU) under the Office of the Permanent Secretary for Transport and Housing (Housing) (Note) issued a notice under section 30C(4) of the BO to the owner of a residential unit in a Home Ownership Scheme estate in Lam Tin, requiring the appointment of a QP to carry out a window inspection of the premises and supervise the required repair. The appointed QP submitted a certificate to the ICU in February 2019, certifying that the window inspection had been completed and that the windows were safe and no repair was required.

The ICU subsequently conducted an audit check on the windows of the premises and found defects in some windows that required repair. As the QP had knowingly misrepresented a fact in the submitted certificate, the QP was prosecuted by the Buildings Department (BD) under section 40(2A)(c) of the BO. He pleaded guilty to the charge in the hearing on September 15 and was sentenced to 14 days' imprisonment suspended for one year, plus a fine of \$10,000.

A spokesperson for the BD today (September 20) reiterated that a misrepresentation to the Building Authority is a serious offence. The BD and the ICU will conduct audit checks on certificates of window inspections received. Upon receipt of reports or matters arising from audit checks, the BD and the ICU will conduct an investigation and take appropriate action against irregularities committed by relevant persons, including instigating prosecution and/or disciplinary action.

Pursuant to section 40(2A)(c) of the BO, a QP who knowingly misrepresents a material fact in any plan, certificate, form, report, notice or other document given to the Building Authority commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 18 months.

Note: The ICU has delegated authority from the Building Authority to exercise statutory building control under the BO on buildings developed by the Hong Kong Housing Authority but due to transfer of ownership have fallen within the purview of the BO.