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8 January 2014

Ms Mary SO
Clerk to Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms SO,

Public Accounts Committee
Consideration of Chapter 7 of the Director of Audit's Report No. 61
Government's efforts to enhance fire safety of old buildings

Thank you for your letter of 20 December 2013 enclosing the questions raised by the Committee on the captioned Chapter of the Director of Audit's Report No. 61.

Please find the responses from the Buildings Department in the attach Appendix for the consideration of the Committee.

Should you require any further information, please feel free to contact Mr. CHOW Kim-ping, Alex, Assistant Director/Mandatory Building Inspection at 2626 1151 or Mr. SHUM Luk-cheung, Chief Building Surveyor/Fire Safety at 2135 2401.

Yours sincerely,

(HUI Siu-wai)
Director of Buildings (Acting)

c.c. Secretary for Financial Services and the Treasury (fax no. 2147 5239)
Secretary for Development (fax no. 2899 2916)
Secretary for Security (fax : 2877 0636)
Director of Audit (fax no. 2583 9063)

Responses to questions from the Public Accounts Committee

- (a) *why the Buildings Department (“BD”) ceased to include both the annual compliance figures and cumulative compliance information in its Controlling Officer’s Report from 2011-2012 onwards;*

BD’s response

The Director of Audit recommended in the Audit Report 2004 that the Director of Fire Services and the Director of Buildings should report the compliance positions of Prescribed Commercial Premises (PCP) and Specified Commercial Buildings (SCB) in the Controlling Officer’s Reports (CORs).

After review, the following figures were included in the respective CORs of BD and FSD since 2006-2007:

- **Targets** – the number of SCB and PCP inspected;
- **Indicators** – the number of directions issued and the number of directions complied with/discharged; and
- a narrative showing the cumulative progress of the implementation programme as supplementary information.

Considering that the annual COR generally provides information on the work performance of the relevant year and it is not a common practice to include cumulative figures, BD ceased to include the cumulative compliance information relating to PCP and SCB in the COR since 2011-2012. Nevertheless, such information continues to be submitted to the Senior Management of the BD for monitoring purposes.

In response to the Recommendation 2.23(a) in the current Audit Report, the BD is considering, in consultation with the Fire Services Department (FSD), including and regularly updating the cumulative compliance information in its website so as to facilitate public access to the relevant information and monitoring of the compliance performance by stakeholders.

- (b) *why the percentages of the Prescribed Commercial Premises having complied with the directions issued by the BD were much lower than the percentages of the Prescribed Commercial Premises having complied with the directions issued by the Fire Services Department ("FSD") (Figure 1 in paragraph 2.12 of the Director of Audit's Report refers); and what actions will be taken by the BD to improve the situation;*

BD's response

The scope and nature of fire safety upgrading works imposed by BD and FSD are different and the compliance rates with the directions issued by the two departments cannot be compared directly.

The fire safety upgrading works imposed by BD are construction requirements involving building works which usually require longer time to co-ordinate and complete. We are aware of the practical difficulties for some building owners to comply with the fire safety construction requirements imposed by the BD. These difficulties may arise from the physical constraints and/or structural problems of the existing buildings. Also, the tenants are usually concerned that the associated building works would disrupt their businesses, and are thus reluctant to facilitate the building owners in carrying out the required upgrading works.

Without compromising basic fire safety, the BD has been adopting a flexible and pragmatic approach in considering alternative proposals to achieve the equivalent standard from the owners on individual case basis.

We will continue to render assistance to the owners for complying with the directions. The measures include:-

- offering technical advice, attending meetings with the owners and their appointed consultants;
- administering Building Safety Loan Scheme to provide financial assistance;
- participating in District Fire Safety Committee Meetings/ Fire Safety Carnivals/ Seminars at district level to instill the concept of upgrading fire safety.

- (c) *what measures will be taken by the BD to improve the compliance rate of directions issued by the BD for Target Composite Buildings, including whether consideration would be given to setting a timetable for those Target Composite Buildings which have not yet complied with the directions to comply with the directions; and in the interim, assessing the risks posed by such non-compliances of directions. According to paragraph 2.16 of the Audit Report, the low compliance rates of directions issued for Target Composite Buildings by the BD are a cause of concern, given that the Fire Safety (Buildings) Ordinance (Cap. 572) has been in operation for some six years;*

BD's response

We are aware of the practical difficulties for some building owners to comply with some of the fire safety construction requirements. These difficulties may arise from the physical constraints and/or structural problems of the buildings, as well as the lack of adequate financial support. Without compromising basic fire safety, BD has been adopting a flexible and pragmatic approach in considering alternative proposals to achieve the equivalent standards from the owners on individual case basis.

We will continue to render assistance to the owners for complying with the directions. The measures include:-

- offering technical advice, attending meetings with the owners and their appointed consultants;
- administering Building Safety Loan Scheme to provide financial assistance;
- working with HAD in assisting the formation of Owners' Corporations; and
- participating in District Fire Safety Committee Meetings/Fire Safety Carnivals/ Seminars at district level to instill the concept of upgrading fire safety.

The target buildings were required to comply with the fire safety construction requirements under the Buildings Ordinance prevailing at the time of their construction. Despite the issuance of directions which are for the upgrading of fire safety, these buildings have already attained certain levels of fire safety protection and do not pose imminent danger. In cases where the buildings pose

imminent danger to the public, the BD would take necessary enforcement action. Nevertheless, the BD will consider formulating an appropriate timetable in clearing the outstanding directions for Target Composite Buildings for effective use of resources. This will be included in the overall review to be conducted in conjunction with the FSD.

- (d) *what are the reasons for the BD to take some 10 years in deciding that the two utilities buildings, referred to in paragraph 3.10 of the Audit Report, should not be exempted from the Fire Safety (Commercial Premises) Ordinance (Cap. 502); what is the number of utilities buildings presently being considered by the BD for exemption or otherwise from Cap. 502; and whether the BD has specified the conditions for exemption;*

BD's response

The BD had been following up the subject cases. However, there had been different views on the cases among BD colleagues, and the different design and construction of the buildings had further complicated the issues.

BD is now considering one case on whether an utilities building (Building C in the Case 1) is subject to the FS(CP)O. Consideration for applicability of the FS(CP)O would be made on a case by case basis, according to the use/construction of the building and the provisions of the FS(CP)O.

- (e) *in respect of the long time taken in issuing fire safety directions (paragraph 3.19 of the Audit Report refers), what is the progress or are the results of the overall review of the appropriate performance targets on issuing the fire safety directions, conducted in conjunction with the FSD, and the timeframe for clearing the backlog of issuing the fire safety directions to target buildings/premises which were overdue;*

BD's response

Working groups headed by directorate officers of FSD and BD respectively have been set up to study and follow up on the observations and recommendations made by the Audit Commission. The working groups have also held joint

meetings to discuss the way forward to implement such recommendations.

The working groups have proposed plans to improve the timeliness in issuing directions and to clear the backlog of issuing fire safety directions for further consideration, having regard to factors such as manpower and resources constraints and synchronized actions with other major building repair / investigations works.

The working groups will further discuss the proposed plans. It is expected that a plan for improving the timeliness in issuing directions and clearing the backlog cases will be formulated in around May 2014.

Besides the plan for improving the timeliness in issuing directions and clearing the backlog cases, the BD has initiated enhancements to the computerized system on monitoring of the issuance of fire safety directions.

On the other hand, in order not to cause any repeated disturbances to the building owners within a short period of time, the BD has decided to defer its actions in issuing fire safety directions for cases with major repair works carried out arising from the BD's other large scale operations in recent years. The BD will continue to monitor the cases with a view to ensuring prompt issuance of directions.

- (f) *in respect of Case 7 referred to in paragraphs 4.10-4.11 of the Audit Report, (i) what are the reasons for the long time taken by the BD to instigate prosecution actions against the owner/occupier of the subject premises for not complying with directions issued without reasonable excuses; and (ii) whether the delay in taking enforcement action involved staff negligence; and if so, whether any disciplinary action had been taken against the staff concerned or whether any improvement measures had been put in place to prevent the situation from recurring;*

BD's response

The premises concerned complied with the fire safety construction requirements prevailing at the time when they were constructed. Despite the issuance of the directions which are for the upgrading of fire safety, the premises had already

attained certain levels of fire safety protection and do not pose imminent danger.

As mentioned in (b) above, BD is aware of the practical difficulties encountered by the building owners, which may hinder the progress in complying with the directions. While it is required that the directions are to be complied with within a specified period, the building owners may apply for an extension of compliance period provided that there are reasonable excuses. At the same time, BD will take various measures to render assistance to the owners for complying with the directions as mentioned in (c). Prosecution is only instigated when the directions have not been complied with within a specified period without any reasonable excuse. As at 31 December 2013, there were 1079 expired directions to be followed up.

The case has been closely monitored, and the owner recently has agreed to submit the programme of works for our consideration.

We will enhance our monitoring system for the non-compliant cases, and to take appropriate actions, including stepping up enforcement action on long outstanding cases without reasonable excuses, with effective use of resources.

- (g) *in respect of the BD's follow-up actions on sub-divided flats, (i) what is the number of such flats pending enforcement actions to be taken by the BD, and the number of such flats still not removed by the owners after the specified deadline; and (ii) whether the BD will accord priority in handling these flats.***

BD's response

Apart from handling reports on sub-divided flats for domestic use (SDFs) made by members of the public, the BD has launched large scale operations (LSOs) since April 2011 to tackle the problem of irregularities of building works associated with and/or unsuitable change of use in SDFs in the territory.

Since April 2011, the BD has identified 3798 SDFs in 485 target buildings in the LSOs and issued 1445 statutory orders for rectification of irregularities of buildings works associated with SDFs. By the end of December 2013, 410 orders had been complied with whilst 1,035 orders are pending further enforcement actions, including prosecution actions against owners who have not

complied with the orders.

Where irregularities of buildings works or unsuitable change in use that pose serious life and limb hazard to the occupants are identified, the BD will take priority enforcement actions. The BD will also take emergency enforcement action where necessary, including rectification of the irregularities in default of the owners.