

Motion on
“Combating bid-rigging to defend the rights and interests of property owners”
passed at the Legislative Council Meeting of 7 June 2017

Progress Report

Purpose

This paper briefs Members on the progress of work by relevant government departments in respect of the motion on “Combating bid-rigging to defend the rights and interests of property owners” moved by Hon LAM Cheuk-ting as amended by Hon LAU Kwok-fan, Hon Alvin YEUNG and Dr Hon Fernando CHEUNG and passed at the Legislative Council meeting of 7 June 2017 (full text of the motion at [Annex](#)).

2. The Government is very concerned about suspected bid-rigging in building repair and maintenance works. Government departments concerned and related agencies, including the Competition Commission (CC), the Independent Commission Against Corruption (ICAC), the Hong Kong Police Force (Police), the Home Affairs Department (HAD), the Development Bureau (DEVB), the Urban Renewal Authority (URA) and the Hong Kong Housing Society (HKHS), have always been working together with various sectors of the community in a multi-pronged approach that includes strengthening law enforcement, providing support to property owners and stepping up publicity and public education to prevent and combat bid-rigging in building repair and maintenance works.

Law enforcement, prevention and education effort by law enforcement agencies

3. At present, there are mainly three agencies targeting enforcement actions against bid-rigging, namely the CC, the ICAC and the Police, curbing illegal activities related to bid-rigging with a three-pronged strategy comprising law enforcement, prevention and education. The Government will review, from time to time, the resources of various law enforcement agencies to ensure that they have sufficient

resources to combat bid-rigging activities in building repair and maintenance works.

Implementation of the Competition Ordinance

4. The Competition Ordinance was fully implemented in December 2015 and combating bid-rigging continues to be the Commission's enforcement priority. As at end August 2017, the Commission has processed over 2 400 complaints and enquires, about 60% of which were related to the first conduct rule¹, with bid-rigging being the major concern. These complaints and inquiries involved different sectors, including the residential building repair and maintenance sector. Of all the complaints and enquiries received by the Commission, around 160 cases had been assessed further, more than 10% of which have proceeded to in-depth investigation stage. The Commission is following up actively on these cases.

5. In March 2017, the Commission commenced proceedings in the Competition Tribunal against five information technology companies for suspected bid-rigging arrangement. In August 2017, the Commission brought the second case before the Tribunal against 10 engineering and construction companies for suspected market sharing and price fixing in relation to the provision of decoration services in a public housing estate.

6. Apart from enforcement efforts, the Commission has been undertaking a series of advocacy and educational initiatives to raise community awareness of bid-rigging. In May 2016, the Commission released a market study report outlining the results of its study into certain aspects of the residential building renovation and maintenance sector. The Commission also launched a large scale "Fighting Bid-rigging Cartels" advocacy campaign including TV advertisement, educational videos, promotional leaflets, seminars and roving exhibitions to enhance public and businesses' understanding of bid-rigging.

7. The Government provides an annual subvention to the Commission and has

¹ The first conduct rule under the Competition Ordinance prohibits agreements, decisions or concerted practices of an association of undertakings that prevent, restrict or distort competition, such as price fixing and bid rigging, etc.

been liaising closely with the Commission on its operational and financial position. The Government will seek funding for the Commission having regard to its actual operational needs (including progress on its enforcement and litigation work), and explore appropriate means for providing resources to the Commission to support its work.

ICAC Law Enforcement, Prevention and Education Work Progress

8. The ICAC has all along been attaching great importance to the corruption-facilitated activities relating to building maintenance and management. Periodical review is therefore carried out to look into the trend, gravity and complexity of such complaints so that resources and manpower could be flexibly deployed to meet investigation needs.

9. To address the increase in building management and maintenance corruption complaints in recent years, the ICAC set up a nine-member dedicated task force in April 2015 to focus on the investigation of such complaints that might involve bid rigging. A two-pronged strategy was also formulated under which the conventional way of investigation, evidence-gathering and prosecution is adopted, while timely enforcement action is taken subject to the conditions of individual cases to ensure potential corrupt and bid-rigging activities are nipped in the bud. Besides, the ICAC maintains close liaison with the other law enforcement departments or regulatory bodies including the CC.

10. From 2011 to August 2017, the ICAC received over 5 300 corruption complaints relating to building management and maintenance. During the same period, a total of 167 persons were charged resulting from such complaints and 148 were convicted with sentences ranging from a fine of \$3 000 to 37 months' imprisonment.

11. On the prevention and education front, the ICAC has been providing clean building management advisory and education services to owners' corporations (OCs). To help property owners and OCs reduce corruption risks pertaining to building repair and maintenance works, we familiarise property owners and OCs with the anti-bribery

legislation and offer them tailor-made corruption prevention advice through district thematic seminars, regional offices and the Integrity Building Management Enquiry Hotline. The ICAC also proactively write to those newly set-up OCs and the buildings on which repair orders or Fire Safety Directions have been served by the Buildings Department (BD) advising them to use the corruption prevention services offered by the ICAC in a timely manner. In the first eight months of 2017, the ICAC reached over 190 OCs or building management related bodies through visits, talks, seminars and other promotional activities, introducing the relevant legislation and preventive measures to over 1 900 people; and handled around 500 enquiries relating to building management. To hammer home probity messages in building management, a publicity drive has also been launched through exhibitions, district activities and promotional leaflets distribution, anticipating to reach 7 000 counts of people in the year.

12. In recent years, the ICAC has promulgated three corruption prevention toolkits which covers daily management, financial management and maintenance work in building management. To reduce the risks of corruption and malpractices arising from the daily management and maintenance of buildings, continued efforts have been made to encourage OCs to adopt the effective preventive measures and sample documents, including the sample probity and anti-collusion clauses, set out in the toolkits. In addition to launching a thematic website on Integrity and Quality Building Management and two corruption prevention training videos on the risks of bid-rigging and corruption in building repair and maintenance, the ICAC also conducted clean building management publicity activities to step up public education.

Police Law Enforcement and Education Work Progress

13. The Police are concerned about illegal acts that may arise from building repair and maintenance works, and will mount intelligence-led enforcement operations to stop infiltration by triads or criminal syndicates in building repair and maintenance works through unlawful means in order to make profits. Besides, the Police have set up an inter-departmental group, chaired by the Chief Superintendent of the Organised Crime and Triad Bureau, to run the “RenoSafe Scheme” since September 2013. Under the Scheme, officers of the Anti-Triad Squads pay visits to the old buildings in

their respective Police Districts to offer one-stop services for OCs and property owners, raising their awareness in guarding against bid-rigging, triad infiltration or other malpractices. The Scheme also sets out the scope of services and direct liaison channels of the departments concerned, and provides OCs intending to carry out building repair and maintenance works with a booklet, listing out possible crimes arising from improper handling of building repair and maintenance works and offering advice on crime prevention. Between September 2013 and August 2017, the Police hotlines received 41 reports, of which 28 involved problems concerning tender prices. Relevant cases have already been referred to the relevant authority or other departments for follow-up.

14. In addition to the three law enforcement agencies including the CC, the ICAC and the Police, common building repair and maintenance, and prescribed repairs under the Mandatory Building Inspection Scheme (MBIS) should be carried out and supervised by registered contractors and registered building professionals respectively. In the legislative framework and administrative measures for implementation of MBIS, there are well-established technical guidelines, regulation of technical standards, avoidance of role conflicts, disciplinary investigations and disciplinary mechanism. Since the implementation of the Scheme from mid-2012 to August 2017, prosecutions have been instigated against the qualified personnel for 12 suspected non-compliance cases, of which 6 cases have already been convicted. Furthermore, building professional bodies of the relevant sectors require the conduct of their members should be maintained at a certain standard, and establish a disciplinary mechanism to handle the non-compliance cases.

Proposal to set up an independent regulatory body and a separate licensing system to regulate building repair and maintenance matters

15. The motion proposed setting up a “building maintenance works authority” to centrally monitor the conduct of the industry and quality of building repair and maintenance works, as well as setting up a statutory body to formulate standards of practice and industry guidelines to ensure fair competition and to set up a licensing system. Having regard to the fact that the above law enforcement agencies, regulatory and professional bodies are already equipped with appropriate statutory powers to deal

with corrupt practices, organised crimes, bid-rigging and anticompetitive conduct, various types of building works not meeting the requisite technical standards, as well as professional misconduct or acts violating the industry's code of conduct, the Government's view is that a separate independent body would not be more direct and effective than the above bodies in handling the matters in question. Furthermore, since building repair and maintenance are often inextricably linked with building management matters, it would be difficult for a regulatory authority or statutory body if so established to intervene in the owners' disputes associated with repair and maintenance or other building management matters. Therefore, the Government has no plan to set up an independent body on building repair and maintenance matters.

Providing property owners with technical support

16. It is the property owners' responsibility to ensure building safety. The Government has always been providing property owners with appropriate support and assistance to help them fulfill their responsibility. The DEVB has made concerted efforts with the BD, the HKHS and the URA over the years to roll out a number of assistance schemes to support property owners in building repair and maintenance, including the Integrated Building Maintenance Assistance Scheme (IBMAS) to provide property owners in need with one-stop financial assistance and technical support; the Building Maintenance Grant Scheme for Elderly Owners to cater specifically for the needs of elderly owners; the Building Safety Loan Scheme to offer low-interest loans to property owners; the Mandatory Building Inspection Subsidy Scheme (MBISS) to facilitate property owners in discharging their mandatory building inspection notices; the "Smart Tender" Building Rehabilitation Facilitating Services scheme (Smart Tender) to help property owners with the tendering process of building repair and maintenance works etc. In the past few years, thousands of buildings and property owners benefitted from these schemes.

17. Among others, the URA took stock of the wealth of experience accumulated from the implementation of building rehabilitation subsidy schemes over the years and launched Smart Tender in May 2016 with its own resources on the cost-recovery basis. Under the scheme, the URA will provide eligible owners' organisations with a DIY tool-kit that offers guidance on making preparation for building repair and

maintenance works, arrange for them independent professionals to provide technical advice and a market estimate on the cost of works, as well as making available an electronic tendering platform for them to engage contractors, so as to facilitate them to make preparation for repair and maintenance works and engage contractors in a well-informed manner on an electronic tendering platform free from interference, thereby reducing the risk of bid-rigging. As at 31 August 2017, a total of 100 applications have been received under the scheme, of which 59 have received preliminary approval and are in the process of works preparation.

18. To encourage and help more property owners secure the necessary technical support in carrying out building repair and maintenance works, the Government will spend \$300 million to subsidise private property owners to participate in Smart Tender at a concessionary rate. Before implementation of the said concession scheme, owners' organisations participating in the Smart Tender scheme have to pay a fee ranging from \$25,000 to \$160,000, subject to the number of flats and the average rateable value of the domestic flats of the subject building, to cover part or all of the cost of Smart Tender services. Under the concession scheme, owners' organisations will be subsidised 50% to 95% of the service costs and the fee payable will decrease significantly to a range between \$1,250 and \$80,000. It is estimated that owners of around 4 500 buildings will benefit from the initiative over the next five years. This new initiative implemented by the Government in partnership with the URA launched on 3 October 2017.

19. The URA also keeps on enhancing Smart Tender. With effect from 13 June 2017, owners' organisations of private residential/composite buildings which have joined the IBMAS and MBISS will be allowed to join the concession scheme, while any owners' organisations which joined Smart Tender before the implementation of the concession scheme may also enjoy the concessionary fees.

20. The motion proposed extending Smart Tender's scope of services to cover the entire repair and maintenance works, including monitoring the progress and acceptance of the works, so as to safeguard the quality of repair and maintenance works. The Government needs to emphasise that the responsibility to repair and maintain private buildings rest with the property owners. Smart Tender targets to

provide technical support for property owners at the early stage of building repair and maintenance works, mainly by, inter alia, the provision of an estimate on the cost of works and an electronic tendering platform, aiming to reduce the risk of manipulation in the tendering process of engaging contractors, which will in turn attract more tenders and reduce the risk of bid-rigging. The professional firms (consultants) engaged by property owners are responsible for coordinating and supervising the repair and maintenance works to ensure that works are conducted in accordance with the terms and conditions in the contract, and they are also required to monitor the progress of the works, confirming works acceptance, etc. As such, it is not appropriate to fully replace the jobs and duties of the consultants by Smart Tender.

Proposal to establish a database on building repair and maintenance

21. The motion proposed establishing a one-stop information platform and a database on building repair and maintenance to enable property owners to grasp the correct information on building repair and maintenance works. The URA has opened the Urban Renewal Resource Centre (URRC) in Tai Kok Tsui to provide property owners with one-stop service including information about urban renewal with associated consultation service and assistance for participation in the URA's various building rehabilitation schemes. Major facilities of the URRC include a URA Neighbourhood Centre; tender boxes for use by owners corporations; a multi-purpose room and meeting rooms which are open for booking by the public for uses that are related to urban renewal; a reference library of building management, and building repair and maintenance, etc.

22. The URA has also set up the "Building Rehab Info Net", a website themed on building rehabilitation, to provide property owners with relevant information and technical support. The website mainly provides information on the generalised workflow and practical information of building rehabilitation; information of various subsidy schemes with application forms; common building issues; tender notices; case sharing and references on total cost of works; related information of other government departments and organisations, etc. The website also provides a telephone hotline and an e-form for enquiries on matters related to building repair and maintenance.

23. At present, the URA is updating and enhancing the “Building Rehab Info Net” to consolidate a broad range of information in a more systematic manner, with a view to facilitating property owners and the general public to obtain the necessary information and support about building rehabilitation, various subsidy schemes, reference cases, etc. In addition, the URA is also working on a “Building Rehabilitation Platform”, in which representatives from building repair and maintenance-related professionals, contractors, government departments and law enforcement agencies will join forces to devise concrete proposals and regulations in respect of the practical guidance and code of practice for repair and maintenance works, references on cost of works, lists of service providers, etc., so as to provide property owners with a one-stop database. In the long run, the database will offer one-stop information and support services on building rehabilitation and maintenance to facilitate active participation among property owners and help them tackle issues and difficulties related to building repair and maintenance.

Review of the Building Management Ordinance (Cap. 344)

24. Regarding the policy on building management, the Home Affairs Bureau (HAB)/HAD play the role of a “facilitator” to encourage and assist property owners, through multi-pronged measures, to set up appropriate owners’ organisations, such as OCs under the Building Management Ordinance (Cap. 344) (BMO), and to provide appropriate support to assist property owners in discharging their responsibilities in building management.

25. To address public concerns on building management, particularly the disputes arising from large-scale repair and maintenance projects, following a consultation with the Panel on Home Affairs in May 2016 reporting the outcome of the public consultation on the review of the BMO and suggesting more than 20 targeted proposals, the HAB/HAD consulted the Panel again on further legislative proposals and related administrative measures in respect of the amendments to the BMO in March 2017, proposing a total of 34 new legislative and administrative measures covering nine areas, including procurement and large-scale repair and maintenance projects, proxy instruments, safekeeping and circulation of records, accounts and financial statements, non-performance of management committees (MCs) and powers

of the Authority, criminal sanctions and technical amendments, etc.

Proposal for imposing cooling-off periods for the tendering and appointment procedures of large-scale repair and maintenance projects

26. Regarding the appointment of consultants by OCs, the existing BMO requires that the tender shall be decided by a resolution of the owners passed at a general meeting of the OC if the cost of appointing consultants reaches the requirements of the procurement provisions, i.e. 20% of the annual budget of OCs. The motion proposes that the selection of consultants for large-scale repair and maintenance projects should all be decided by a resolution at an OC general meeting. From the selection of project consultants to the passage of resolutions on large-scale repair and maintenance projects, multiple general meetings may be required, and this may result in delay in the passage of such resolutions. The HAB/HAD consider it necessary to carefully consider the impacts and feasibility of the proposal in further details.

27. Regarding the proposal for stipulating cooling-off periods in the BMO, the HAB/HAD are concerned that the mandatory imposition of a cooling-off period clause in the tendering and consultant appointment procedures of large-scale repair and maintenance projects may lead to more uncertainties in the whole discussion process or may even unnecessarily delay the implementation of some repair and maintenance works (particularly works required by statutory orders), and may also result in an increase in the costs of related projects. In this connection, the HAB/HAD are of the view that more flexibility should be allowed, so that OCs may decide on their own whether to include the cooling-off period clause into the contracts after having fully evaluated the impacts of such clause.

Proxy instruments

28. The HAB/HAD agree that it is necessary to enhance the proxy arrangements to better protect the interests of property owners. In this connection, the HAB/HAD put forward in May 2016 a series of proposals and issued “administrative guidelines” to encourage OCs to adopt as far as practicable. The HAB/HAD proposed in March 2017 further initiatives to deter the manipulation of proxies. The major proposals

include –

- (a) property owners may include their voting instructions in the proxy instruments;
- (b) the proxies should countersign the proxy instruments and make a declaration that the proxy instruments they hold are honestly procured and are true and accurate representation of the said owners' voting instructions; and
- (c) the OCs should keep the record of the proxy instruments and the declarations for at least three years.

According to section 36 of the existing BMO, proxy holders who fabricate proxy instruments may be criminally liable for false declaration.

Powers of the Authority and criminal sanctions

29. The motion proposes that the HAD be empowered to instigate relevant prosecutions. The HAB/HAD proposed in March 2017 that the powers of the Authority be extended and appropriate criminal sanctions be added in the BMO, including empowering the Authority to, in respect of cases which have met certain objective and stringent criteria, (a) dissolve the non-performing MC and appoint an administrator to re-elect an MC; and (b) appoint a building management agent to deal with a hiatus in management, and the remuneration and expenses of the building management agent should be deemed to be part of the expenses of management of the building. The HAB/HAD also proposed that appropriate criminal sanctions be added to the BMO to ensure proper safekeeping of minutes of meetings and tender documents by MCs, Deed of Mutual Covenant (DMC) Managers and Property Management Companies (PMCs), and that DMC Managers and PMCs be criminally liable for failing to produce annual audited accounts as required by contract.

Way forward for review of the BMO

30. Upon putting forward further proposals in March 2017, the HAB/HAD have been liaising with and listening to the views of different stakeholders, including the

Legislative Council members, major political parties, the District Councils, the Property Management Services Authority, property management related professional bodies, MC members, Resident Liaison Ambassadors, property owners and local community members through public engagement activities. Having consolidated the views of different stakeholders, the HAB/HAD are now considering further refinements to certain proposals, with a view to strengthening regulation while taking into account actual operational needs.

Support for OCs and Owners by HAB/HAD

Support services

31. On supporting OCs and property owners, since “three-nil” buildings may encounter more difficulties in planning for building repair and maintenance works, the HAD has introduced the Building Management Professional Advisory Service Scheme (BMPASS), which is now in the third phase. Under the BMPASS, the HAD has commissioned PMCs to provide owners of buildings aged 30 years or above and with low rateable values with free professional advisory services, which include assisting the property owners to form OCs, to apply for various building repair and maintenance subsidy and loans schemes and to take forward building repair and maintenance works, etc. with a view to enhancing building management and safety.

32. If disputes arise in the course of OC meetings or building repair and maintenance, the District Offices (DOs) will actively seek to resolve the disputes and introduce to the OCs and property owners various professional support services, including the “Free Legal Advice Service on Building Management”, the “Panel of Advisors on Building Management Disputes” (the Panel) and the “Free Mediation Service for Building Management”, under which free professional advice from independent professionals or pro bono mediation services by accredited mediators are provided to resolve the disputes.

33. In April 2017, HAD launched the “Pre-meeting Advisory Service for OCs” (PMAS) to provide enhanced support services to OCs. It targets (a) newly formed OCs, (b) new term OCs, and (c) OC general meetings with expected dispute items.

Under the new service, members of the District Building Management Liaison Teams (DBMLTs) of the DOs will meet with the MC members before the MC and OC meetings to provide advice on the procedural aspects of the meetings. As at August 2017, more than 2 000 PMAS were provided by the DOs.

34. In response to the concerns on the cost and time involved in resolving building management disputes through legal proceedings at the Lands Tribunal, the HAD has proposed to launch the “Building Management Dispute Resolution Service” (BMDRS). The new service will be run as a pilot scheme for two years. A retired judge will be appointed to provide objective and authoritative advice to OCs and property owners free of charge to help facilitate the resolution of building management disputes without going through costly legal proceedings.

35. Besides, the HAD will also propose a new arrangement to require the MC chairman and the PMC to sign a checklist confirming that the procedure for convening a meeting and the proper disclosure of the information on proxies for the OC meetings have been complied with. Explanations should be provided for any deviation from the requirements in the checklist for the sake of transparency and accountability.

Publicity and education

36. The HAD has hitherto, through publicity and education, encouraged property owners to actively take part in OC meetings, and organised structured training programmes to enhance the knowledge and capability of MC members in handling building management matters. In recent years, the HAD and the DOs have, in collaboration with the BD, the Police, the ICAC, the URA, the HKHS and the relevant professional institutes, organised various seminars, workshops and talks from time to time, and assisted the organisations concerned to distribute to OCs and property owners publications on building management and maintenance, as well as the updated information on anti-corruption and crime prevention.

37. In addition, the DOs have also maintained liaison with the OCs in the districts. Once the DOs notice that repair and maintenance works are intended in buildings and estates, they will provide support and advice and encourage the property owners to

actively participate in the process and understand the details of the repair and maintenance projects at an early stage. The DOs will also, having regard to the needs and circumstances, suggest that the OCs and property owners apply for various support schemes provided by different departments and organisations.

38. To enhance the publicity and education, the HAD has launched a new round of television, radio and poster publicity to encourage property owners to protect their own interests by taking part in OC meetings in person, instead of appointing proxies to attend the meetings and vote on their behalf.

Manpower on building management

39. At present, of the 499 Liaison Officers (LOs) in the HAD, about one fourth (i.e. around 128 LOs) are deployed for building management duties. The DBMLTs have been set up in each of the 18 DOs, which are tasked to provide dedicated support and multi-pronged assistance to the property owners in dealing with building management matters. Building management involves a wide range of issues and is increasingly complicated. The HAD understands that the LOs have been facing heavy workload and pressure. The HAD reviews from time to time the establishment and scope of service in the area of building management having regard to actual circumstances and needs. In addition, the HAD has, through re-prioritisation and enhancement of work arrangements, introduced various targeted measures and schemes, such as the BMPASS, recruitment of Resident Liaison Ambassadors in “three-nil” buildings, provision of structured training for property owners engaged in OC responsibilities, and the setting up of the Panel, etc. to provide more effective assistance to property owners for proper building management. These help focus resources and allow the LOs to spend more time to deal with complicated building management duties.

40. Most of the LOs engaged in building management duties are experienced officers who have undertaken the relevant duties for nearly seven years on average. To equip the LOs with the professional knowledge in discharging their building management duties effectively, the HAD provides training programmes and briefing sessions for them on a regular and need basis. These include induction courses on the principles and practices of building management for newly-recruited LOs, as well as

workshops and theme-talks on the provisions of the BMO and judgments of related court cases for more experienced LOs. In addition, the HAD has engaged a tertiary institute to provide tailor-made training courses for the LOs responsible for building management duties, specially focusing on the legal aspect of multi-storey building management such as the land system in Hong Kong, BMO provisions and its relationship with DMC, disputes resolution, etc.

Proposal for setting up a Building Affairs Tribunal

41. The motion proposes to set up a “Building Affairs Tribunal” to resolve existing problems such as long duration and expensive legal costs required for handling disputes concerning building repair and maintenance works. The HAB/HAD are of the view that from the specific operational and legal perspectives, the setting up of the Building Affairs Tribunal, no matter inside or outside the judicial system, will involve a number of issues –

- (a) the setting up of the Building Affairs Tribunal within the judicial system may risk duplication with the existing system, consisting of the Small Claims Tribunal, Lands Tribunal, District Court and Court of First Instance of the High Court, leading to a multi-layered structure and reduced efficiency;
- (b) on the other hand, it is proposed that the Building Affairs Tribunal be established outside the judicial system, drawing reference from the Minor Employment Claims Adjudication Board under the purview of the Labour Department. However, disputes over building management and maintenance often involve not only money, but also issues regarding ownership and maintenance responsibility issues (such as water seepage and delineation of common areas). If judgments are made in the absence of adjudication by professional judges, those in future cases of similar nature may be affected; and
- (c) Members of the public who are dissatisfied with the adjudication of the tribunal may appeal to higher courts. Given the complexity of building management issues, there may be a considerable number of appeal cases, which may defeat

the purpose of efficiency enhancement and resource saving.

Increasing the manpower and resources of the Lands Tribunal

42. As per the BMO, the Lands Tribunal is empowered to adjudicate on building management disputes. According to the figures provided by the Judiciary, the average waiting time for building management cases is shorter than the target. The HAB/HAD have referred the proposal for increasing the manpower and resources of the Lands Tribunal to the Judiciary for consideration.

Administration Wing, Chief Secretary for Administration's Office

Development Bureau

Home Affairs Bureau

Commerce and Economic Development Bureau

Security Bureau

Home Affairs Department

Competition Commission

Independent Commission Against Corruption

Hong Kong Police Force

Buildings Department

Urban Renewal Authority

October 2017

(Translation)

**Motion on
“Combating bid-rigging to defend the rights and interests of
property owners”
moved by Hon LAM Cheuk-ting
at the Council meeting of 7 June 2017**

**Motion as amended by Hon LAU Kwok-fan, Hon Alvin YEUNG and
Dr Hon Fernando CHEUNG**

That bid-rigging seriously undermines the fairness and impartiality of the tendering process of building maintenance works, and also causes the price of the successful bid in maintenance works to far exceed the reasonable market rate, thus greatly increasing the maintenance expenses of property owners while the quality of maintenance works cannot be safeguarded; in recent years the situation of bid-rigging in building maintenance works in Hong Kong has become increasingly rampant, and some bid-rigging syndicates even collude with owners' corporations, property management companies and triad members to manipulate tendering process by unlawful means, including significantly inflating maintenance costs to make huge profits, thus causing property owners to suffer serious losses; in order to combat the illegal activities of bid-rigging, this Council urges the Government to:

- (1) expeditiously plug the relevant loopholes under the Building Management Ordinance by requiring the election of consultants appointed for large-scale maintenance works be decided by a resolution at a general meeting of the owners' corporation, so as to safeguard the rights and interests of property owners;
- (2) ensure that law enforcement agencies have adequate resources to investigate bid-rigging activities and step up law enforcement to deter bid-rigging syndicates;
- (3) provide more building management training programmes and seminars on the prevention of bid-rigging, so as to enhance the knowledge of owners' corporations, property management companies and property owners on the relevant subject and their understanding of the Building Management Ordinance, and at the same time enhance public promotion and education to enable members of the public to understand the perils of bid-rigging and take precautions;

- (4) provide property owners with professional support and establish a 'database on building maintenance' to enable them to comprehensively grasp the correct information on building maintenance works;
- (5) set up a 'building maintenance works authority' to centrally monitor the conduct of the industry and quality of maintenance;
- (6) step up the promotion of the Smart Tender scheme, and extend its scope of services to cover the entire maintenance works, including monitoring the progress and acceptance of the works, so as to safeguard the quality of maintenance works;
- (7) increase the staff establishment of District Offices for building management work and enhance the functions of Liaison Officers, so that they can follow up the work relating to building maintenance works in a dedicated manner; and
- (8) set up a 'building affairs tribunal' to resolve existing problems of lengthy time and expensive legal costs required for handling disputes concerning building maintenance works;
- (9) amend the Building Management Ordinance on the instrument appointing a proxy, so as to better safeguard the rights and interests of property owners;
- (10) set up a statutory body to formulate standards of practice and industry guidelines to ensure fair competition and set up a licensing system;
- (11) impose cooling-off periods for the tendering and appointment procedures of large-scale maintenance works, so as to enable property owners to review the relevant decisions; and
- (12) increase the manpower and resources of the Lands Tribunal to expedite the handling of legal disputes arising from building maintenance works; and
- (13) empower the Home Affairs Department to monitor building maintenance works initiated by owners' corporations and residents' organizations and institute relevant prosecutions.