



**THE HONG KONG INSTITUTE OF  
SURVEYORS**

15<sup>th</sup> April 2004

**Mr. Michael M.Y. Suen**  
**Secretary for Housing, Planning and Lands**  
**Government Secretariat**  
**Central Government Offices**  
**8/F West Wing**  
**11 Ice House Street**  
**Hong Kong**

Dear Mr. Suen,

**Re: Building Management and Maintenance Consultation Paper**

The building management and maintenance problems have long been a headache to the Government and the concerns of the public. Due to the various reasons such as lack of owners' awareness, financial difficulties and other plights suffered by building owners, a considerable amount of building fabrics in the territory was in long-term disrepair status.

As described in your speech at the Legislative Council on 3<sup>rd</sup> July 2003, "Despite massive manpower and resource input by the Government, the effectiveness has not been obvious and the progress has lagged far behind the speed of the ageing of the buildings."

We welcome the initiatives made by the Housing, Planning and Land Bureau (HPLB) to develop new approaches in tackling the building management and maintenance problems. During the consultation period, our representatives have attended the Open Discussion Forum organized by the HPLB on 12<sup>th</sup> January 2004 to express our views. We have also organized a discussion forum for our members to discuss the subject. To facilitate your colleagues to understand our opinions, we would like to outline our views on the Consultation Paper as follows for your perusal.

**Current Statutory Provisions**

1. Under Section 26 and 26A of the existing Buildings Ordinance (Cap 123), where in the opinion of the Building Authority any building liable to become dangerous by dilapidation, the Building Authority may by order in writing require the owner of the building to carry out necessary works to such standard acceptable to the Building Authority and in compliance with the requirements of the law. Similar provision has also been stipulated in Section 28 of the same Ordinance to require the building owner to carry out such drainage works that previously are inadequate, or in defective or insanitary condition.

.../P.2



# THE HONG KONG INSTITUTE OF SURVEYORS

Page 2

2. The existing Buildings Ordinance has already set down the baseline of maintaining health and safety of the existing buildings. However, the current arrangement of serving statutory orders in requiring building owners to conduct building repair is considered as a "corrective" approach. The action is normally done after the occurrence of problem, it does not help to improve the existing standards. Premature ageing of buildings and deteriorating facilities will continue and multiply.
3. The first option of maintaining the status quo described in the Consultation Paper does not like to be an option to support. We opined that an improvement to the existing arrangement is necessary and a "proactive" mechanism can be formulated.
4. Under the current Building Management Ordinance (Cap 344), building owners may form Owners Corporation (OC) voluntarily and carry out management of their own buildings. Under Sections 40B and 40C of the same Ordinance, the Authority (Secretary for Home Affairs) possesses the power, or apply to the Lands Tribunal, to order the owners of a building to appoint a building management agent to manage a building in certain circumstances, such as the building is in a danger or risk of danger to the occupiers. The statutory provision for mandatory building management is already in existence in the current legislative framework. It appears that no further legislative change is necessary should the Government wish to enforce mandatory building management. However, since the enactment of the said BMO amendment in year 2000, this mandatory management mechanism has never been activated so far.

## Mandatory Building Management and Maintenance

1. It is the time back to the middle of last year when our representatives joined with other professional bodies in the discussion session at your office to discuss the said subject, voices from the insurer association advised that there is difficulty in procuring insurance for the "problematic" buildings as there used to be unauthorized structures built. Members of our Institute who work in the property management field also expressed reservation on the risk of building management without proper insurance coverage. It appears that the problems of unauthorized building works must be resolved before insurance coverage can be effected and mandatory building management can be implemented successfully.
2. The Government assumed the active involvement of property management company can settle majority, even not all, of the existing problems. But whether the local service providers are willing to take up the tasks is a question. Local service providers must not have hesitation to take up management of large housing estate with structured management organizations (OC or MAC), but they may not be interested in managing low rise aging domestic blocks while majority of owners are aged and/or of low income groups. They may be exposed to the risk of taking up unnecessary liabilities due to the lack of insurance coverage as mentioned above, and also the risk of bad debt on their account in servicing these buildings.

..../P.3



# THE HONG KONG INSTITUTE OF SURVEYORS

Page 3

3. Another major concern of the public is the quality of the property management company available in the market. A comprehensive building management services shall include all-round aspects ranging from minor and routine services of house-keeping to major works as procurement and management of renovation works. It is not uncommon that some building management agents may maintain and manage account for the building owners as trustee to facilitate the credit and payment settlement with the vendors or utilities companies. Any malpractice or sub-standard service of these building management agents may affect the operation of certain activities, the maintained fund may be volatile in the extreme case such as the bankruptcy of building management agent. The Government has to consider a proper registration system and the criteria of entry for controlling the quality and conduct of the property management companies.

## Mandatory Building Inspection

1. An adult usually needs health check-ups regularly to safeguard against possible health trouble. When we are talking about the building health, we cannot see the reason of not taking the building check (inspection) at regular interval. Under the current legislative requirements, building owners have the responsibilities to carry out regular checking to the building facilities including fire services, electrical and lift installation to assure the proper functioning of these facilities. Building fabrics age with time as well and the rate of deterioration accelerates in the presence of unfavorable external factors. Similar to the body check, building check at regular interval is considered as a "preventive" approach to provide against possible trouble. Building owners can have the idea of building problems and plan the necessary remedial works based on the findings. Definitely, professional input is necessary to sort out the feasible solutions for owners.
2. The motion debate on mandatory inspection and management of aged building was moved by Hon. Lau Ping-cheung in the Legislative Council in early July 2003. This is a follow-up of the Mandatory Building Safety Inspection Scheme (BSIS) proposed by the Buildings Department in 1997. Although the motion was not passed, the idea of mandatory building inspection and maintenance was generally supported by members. The obvious divergence to be compromised is the method of implementation and technical details of who should be responsible for the first inspection.
3. One of the reasons of the prevailing building neglect problem was the lack of a mandate for owners to conduct regular maintenance inspection and carry out necessary preventive maintenance and repair works accordingly.

....P.4



## THE HONG KONG INSTITUTE OF SURVEYORS

Page 4

4. We certainly agree that the buildings owners should be responsible for the maintenance of their buildings. We however opined that the Government shall not rule out the free initial inspection proposal which possesses much wider public acceptance. In fact, the Government is now carrying such responsibility to some extent. The Buildings Department identified target buildings in the Co-ordinate Maintenance of Buildings Scheme (CMBS) and work out with other Departments to compile a list of proposed repair works after building inspections; the Buildings Department shall response to any enquiry or complaint lodged by public on the building safety issue and conduct visual inspection to structure in question. As mentioned earlier, these actions tend to be corrective in nature instead of preventive.
5. We opined the one major factor which attributes to the failure of the previously proposed mandatory BSIS by the Buildings Department is the depth of coverage. It requires a detail check and the extent of inspection and necessary remedial works tend to be substantial if the requirements are to be fully compiled with. The details of inspection and expectation may be adjusted after learning from the failure of this BSIS proposal.

We agree with the basic principle that buildings owners should be responsible for the maintenance of their own building.

At the same time, this should not prevent the government from stepping in to help. Bearing in mind that these building owners are also tax-payers. They have also paid a land premium to the government when they (or their developers) "purchased" the lease-hold land from the government. These land premium can be viewed as one mode of in-direct taxation.

If the government is willing to offer to carry out a round of initial survey to those target old buildings, the scheme of mandatory inspection and maintenance is expected to receive support from the general public. This round of initial inspection can also provide a complete set of records to the government. The government can then take action under the Buildings Ordinance (or other legislation to be enacted) against defaulting owners.

6. The expenditure of the free initial inspection, according to our estimation, will not be phenomenal and should be around HK\$40 million annually for 5 years. This may not be the net additional outlay by the Government considering the opportunity cost of the Buildings Department on looking after private building safety in the existing practice. We agree there may be additional input. However, in considering that the existing dilapidated buildings have become a general social problem, we think that a reasonable amount of Government investment in this aspect is totally justified.

....P



# THE HONG KONG INSTITUTE OF SURVEYORS

Page 5

7. The details of implementation and the cutting line for requiring mandatory inspection may be further studied and formulated. The Government recommends 20 years as a cut-off point, but the age of a building is not necessary directly related to its safety and hygiene condition. In particular, it has no direct link with environmental hygiene condition. The public is also expected to ask for exemption on carrying out inspection in certain situations, such as buildings having completed a recent renovation scheme under the supervision of an authorized person. The Government shall study the details to facilitate the processing of application of such exemption and make it clear to the public. Our Institute is happy to help in providing our comment and suggestions if required.

## Management or Maintenance – Which Comes First

1. It is observed that the formation of OC and subsequently appointment of property manager would not necessarily guarantee good management maintenance. There were estates and buildings that were properly managed and maintained even there is no OC. There are numerous buildings that are neglected even though there are OCs formed.
2. Members of our Institute have conducted free drainage survey to some residential estates after the outbreak of SARS in the middle of last year, it was discovered that a number of old buildings in the wealthier area were neglected in terms of repair and maintenance on the common parts and drains. The entrance lobby could have been beautifully decorated while the drainage pipes and less noticed common areas were left in a dilapidated state. It is obvious that these buildings are lacking planned building maintenance. It is expected that a comprehensive building survey under the mandatory inspection scheme can reveal the problems, recommend necessary repair works and desirable improvement works at the owners aspiration to improve the built environment can also be formulated.

## The Way Forward

1. It is necessary to have long term consideration although there may be intermediate solutions. We opined that the mandatory inspection and maintenance can attract a much wider and easier public acceptance and it would be the most effective way to tackle the immediate problem at the lowest cost.
2. Mandatory inspection and maintenance can also be readily enforced on individual owners without the need of forming OC. Once mandatory inspection and maintenance is in place, we believe that it will eventually generate awareness of the owners on the need for good building management. We got the experience that many buildings form their OC after received repair orders from the Building Authority.

..../P.6



## THE HONG KONG INSTITUTE OF SURVEYORS

Page 6

3. The Government may study the details of the existing Building Safety Loan Scheme and made necessary modification for the implementation of the mandatory building inspection and maintenance scheme in order to assist building owners with financial difficulty. This money is only loaned to owners and are recoverable. The government only lose some interest income.
4. We support that good building management is the long term solution for the problem. The Government shall provide necessary supporting measures to cultivate the environment in facilitating the building management in the territory. We opined that there shall be improvement to the existing hardware and software such as the maintaining of a register of service providers and the reviewing of services offered by relevant Government Departments.
5. Home Affairs Department plays an important role on the promotion of OC formation. A more proactive approach shall be allowed to assist building owners in tackling real problems encountered such as the assistance in finding and contacting missing owners.
6. The building problem is actually associated with the culture of the entire community. It is impossible for the problem to be resolved if we do not look at it from the culture of the community. The Government has to take a long-term initiatives to develop a building care culture through education.

We hope that the above view would be useful to you while formulating the approach for building management and maintenance. Our Institute is ready to offer any assistance if necessary. Should you have any query or further information is required, please feel free to contact the undersigned at 2722 7270 or our Secretary-General, Mr. Gordon Ng at 2526 3679.

Thank you for your kind attention.

Yours faithfully,

**Raymond Y.M. Chan**  
Chairman, Building Surveying Division  
Hong Kong Institute of Surveyors