



**The Legislative Council of HKSAR
Bills Committee on Building Energy Efficiency Bill
Invitation for Submissions**

**Meeting on Tuesday, 9 February 2010 at 2:30p.m.
At the Chamber of the Legislative Council Building**

1.0 Introduction

- 1.1 The Environment Bureau introduced a Building Energy Efficiency Bill (BEEB) to the Legislative Council on 2 December 2009 with an aim to implement mandatory compliance of minimum building energy efficiency standards.
- 1.2 The Hong Kong Institute of Surveyors (HKIS) in principle supports the proposed BEEB and would like to offer further views to the Bills Committee for consideration.
- 1.3 HKIS previously submitted comments to the Panel on Environmental Affairs on 14 February 2008 in respect of a “Proposal on the Mandatory Implementation of the Building Energy Code”.

2.0 Enforceable Buildings

- 2.1 HKIS noted that our comments of 14 February 2008 were considered and more varieties of building had been included in the BEEB.
- 2.2 The proposed mandatory requirements entail continuous duties of building owners to ensure compliance with the standard of “Certificate of Compliance Registration” and “Form of Compliance”. If there is an absence of owners’ corporation in a strata-titled building, it would be practically difficult for willing owners to carry out works unilaterally especially when fund contribution is required. To this end, there must be a penalty system on owners who obstruct the implementation of energy efficiency improvement works similar to the provision in Buildings Ordinance.
- 2.3 HKIS proposes in the comments of 14 February 2008 a reasonable transitional period should be allowed for implementation of the new legislation for existing buildings. To minimize any possible social impact, HKIS upholds its suggestion to implement the new legislation in phases according to building age and in parallel with the proposed Mandatory Building Inspection Scheme.
- 2.4 It is noted that authorized officers of the Director is empowered to inspect and examine document and drawing of buildings. A person who fails to produce such documents is liable to conviction to a fine or imprisonment. Obviously, it causes significant hardship to existing building owners as provision of document particularly building services drawings is neither a pre-requisite obligation nor normal practice of developer. Due flexibility should be allowed in the new legislation on enforcement action.



3.0 Declaration Procedures

- 3.1 HKIS also suggested in our comments of 14 February 2008 that a more timely submission of self-declaration should be considered. While we welcome some amendments were made in the BEEB especially the provision of extension application procedure, it is suggested that a more flexible approach should be adopted in considering such application.
- 3.2 For new buildings, the developer will be responsible for submission of the declarations with the certification by a registered energy assessor only. However, we consider that the declarations must also bear the endorsement of the AP responsible for the building design and construction to the effect that the concerned building services installations to be installed or installed on site are also complying with the relevant safety requirements under the Buildings Ordinance, Fire Safety Ordinance, Fire Services Ordinance and other laws for matters relating to fire protection and separation, means of escape provisions, artificial lighting and ventilation requirements under building approval, barrier free facilities, identification of approved use type etc. It is important for the AP to ensure and certify also that the building services installations installed after the issue of OP do not affect and jeopardize the safety standards of the building. It is common practice and indeed a requirement for developer to appoint an AP to liaise with Building Authority, Lands Dept. FSD, Water Supplies Department, etc in a building process and oversee the compliance with all statutory requirements of the building. It is reasonable and logical to entrust the AP to oversee compliance of the Energy Efficiency requirements on behalf of the developer. Moreover, an AP is regulated under a well established control mechanism under the Buildings Ordinance, the requirement of AP endorsement of the declarations could ensure the overall safety design and green operation of the buildings.
- 3.3 Likewise, for major retrofit of building services installations, it is highly likely that certain building construction, fire safety provisions, artificial lighting and ventilation provisions required under the Buildings Ordinance or the building plan approval would be altered. We consider the endorsement of an AP is necessary and important for the same overall compliance of statutory requirements and building safety point of view. It is particularly essential for an AP to co-ordinate the retrofit works if it involves licensed premises under various statutory provisions.
- 3.4 Although there is clear requirement for the developer to submit the stage two declaration (i.e. on occupation approval), there is no consideration in this Bill as how to deal with the situation whereas the developer sells the buildings and assigns the title to individual purchasers before submitting the stage two declaration or the issue of the Certificate of Compliance Registration by the Director. It will be impractical and unreasonable for the individual owners of the buildings to take up this responsibility.



4.0 Finance Assistance

- 4.1 HKIS suggested in 14 February 2008 that finance assistance should be made available to those in need. It was subsequently noted that a “Building Energy Efficiency Funding Scheme (BEEFS)” was launched in 8 April 2009 for such purpose.
- 4.2 However, the BEEFS only provides one-off HK\$450 million to subsidize and encourage building owners to conduct energy-cum-carbon audit projects and energy efficiency project. It is suggested that the BEEFS should be extended with continuous funding to support this proposed legislation.

5.0 Registered Energy Assessor and Appeal Board

- 5.1 It is noted that only members of one professional institution in Hong Kong is considered qualified to perform the duty of a “Registered Energy Assessor (REA)” and “Appeal Board Panel Member (ABPM)”.
- 5.2 HKIS opines that there are other professionals in Hong Kong, such as members of HKIS, who are also equipped with similar expertise. Provision should be stipulated in the new legislation for other professionals who equips with appropriate academic qualification and experience should also be considered as REA and ABPM.
- 5.3 An independent registration and nomination body, comprising members of various building-related professional institutions such as HKIA, HKIE and HKIS should be formed to consider vetting of application of REA and nomination of ABPM.
- 5.4 For Appeal Board Panel, apart from extension of membership to cover other professional institutions, it is also suggested that lay member representing property owners should also be included. This is similar to the arrangement of Appeal Tribunal under the jurisdiction of Buildings Ordinance.

6.0 Promotion of the Energy Saving Concepts

- 6.1 To encourage and educate the public to be more aware of the Energy Saving Concepts, HKIS supports that the Energy Audit Form to be displayed in a conspicuous position of the building.
- 6.2 Similarly, HKIS also recommends that the Certificate of Compliance and the Form of Compliance to be displayed in the same way as Energy Audit Form. It can draw a distinction with those buildings without the Certificates, thereby enhancing its value and image of the buildings.



- 6.3 In the meantime, HKIS will continue to promote and support the related Energy Saving activities, campaigns and competitions such that the Energy Saving Award Certificates can be issued to the owners who can display it in the existing buildings.

7.0 The statutory responsibility of Property Management Companies

- 7.1 HKIS supports more statutory responsibilities to be placed on the Owners and the Registered Energy Assessors.
- 7.2 Property Management Companies are also Agents working for the Owners and owe a duty of care to the Owners like any other Consultants (i.e. Registered Energy Assessors). It is very difficult for the Property Management Companies to control and regulate the conduct of the Registered Energy Assessors. Therefore, it may be unfair that the Property Management Companies should be held statutorily responsible to issue Notice within two months after the completion of the major retrofitting works to the Government for the default of the Registered Energy Assessors.
- 7.3 HKIS recommends that 'a property management company' should be deleted under Section 18(7) and 18(10).

Prepared by the Hong Kong Institute of Surveyors
1 February 2010